

**THE EFFECTIVENESS OF EMPLOYMENT EQUALITY POLICIES
IN RELATION TO IMMIGRANTS AND ETHNIC MINORITIES IN
THE UK**

John Wrench and Tariq Modood

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International Migration Papers

International Migration Papers (IMP) are produced by the International Migration Branch of the ILO to make available current research on global migration trends, conditions of employment of migrants, and the impact of state policies on migration and the treatment of migrants. Some ten to fifteen such papers are published each year as working papers. Readers' comments on these IMP papers are most welcome since they are intended to stimulate discussion, identify emerging issues of concern, and suggest options for state and social partner interventions in the field of migration. A full list of IMPs is included at the end of this issue.

This IMP No. 38 inaugurates a new occasional series addressing discrimination and promoting equality of opportunity in the world of work. In addition to contributing data, perspective and options for ongoing efforts, issues this year are intended to contribute to the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in Durban, South Africa, 31 September to 8 October 2001.

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Foreword

The International Labour Organization is committed to an agenda of promoting decent work for all in the global economy. As a standards-based institution, ILO has always given particular attention to promoting social responsibility in treatment of workers and others at risk in the world of work.

Migration and the protection of migrant workers have emerged as fundamental challenges in this globalizing world. As ILO's own research has emphasized, globalization is producing winners and losers, and those who lose their livelihoods in economic restructuring and unregulated trade don't just disappear. Rather, many of them migrate elsewhere, to where they perceive opportunities to survive and earn an income.

Migration and the treatment of migrants - and ethnic minorities - are clear measures of social health, or lack of it, in individual societies and among the community of nations. Migrants are the image and reflection of a host of economic, social and political problems exacerbated by a globalization whose benefits are not shared equitably. Nonetheless, social responsibility is the legitimizing feature of any system of economic activity and governance. This study and others to follow, represent a concerted effort to provide policy-makers, legislators, employers, workers and others concerned with perspectives, tools and practical examples to strengthen socially responsible policy and action by governments and social partners.

With its particular expertise and competencies, ILO initiated in 1991 a major international research project "Combating Discrimination in Employment Against Migrant and Ethnic Minority Workers." This research has already made a significant contribution to documenting discrimination and identifying best practices to overcome it.

This report is the first comprehensive analysis of implementation and effectiveness at the national level of policies, measures and practices designed to reduce discrimination and promote equality of opportunity in employment. It describes and analyses the numerous and sometimes complementary anti-discrimination measures established by national and local government, by legislation, by employers and trade unions throughout the United Kingdom. It evaluates which of these have been more effective, which not so, and how different sets of measures by different actors can reinforce each other. The report also discusses the business case for diversity management and equal opportunities. It concludes with observations on the relationship between voluntary and compelled responses and the need for minimum legal standards for employment conditions.

This study may be a model approach to assessing anti-discrimination measures nationally. It is also a contribution towards understanding the manifestly complex and multifaceted realities of discrimination and approaches to overcoming it. The review looks at treatment of migrant and ethnic minorities together, given that relevant data cannot be disaggregated in the UK context.

The World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban in September 2001 is a major opportunity to develop a comprehensive and strategic international analysis of these scourges of social behavior. This report is offered as a contribution towards the international agenda setting and programme elaboration taking place at that conference to overcome racism and xenophobia.

Geneva, March 2001

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EXECUTIVE SUMMARY

The research evidence set out in this report provides the latest employment profile of ethnic minorities in Britain. The term 'ethnic minorities' in Britain is closely related to 'immigration', which itself is closely related to 'racial groups' or 'black' or 'coloured'. In the popular understanding, 'immigrant' means people who are not white, most specifically, persons whose recent origins are in the Caribbean, Asia or Africa. In this way, 'immigrant' includes people of these origins even though they may be born in Britain. The term 'ethnic minorities' is used to describe this population and is meant to signify that most of them are born in Britain or of long residence and are not just workers of a different 'colour' but have distinctive cultural heritages and communities. In fact, more than half of the ethnic minority people in the UK are British nationals. Most official and research data do not contain the nationality of an individual and so terms like 'African-Caribbean', 'Indian', 'Pakistani' and so on are used as ethnic minority labels and do not signify current nationality and do not differentiate between recent arrivals and second or third generation residents/citizens.

The research evidence shows the increasing differentiation between ethnic groups in the character of their employment experiences. It also shows that despite the success, both educationally and in employment terms, of large sections of Britain's ethnic minority communities, when judged alongside their white peers they are still seen to carry the burden of an 'ethnic penalty.' In other words, ethnic minorities are steadily getting better jobs but are doing so to a lesser extent than white people with the same qualifications.

Research on the processes and structures of ethnic and racial discrimination provides part of the explanation as to how this ethnic penalty is paid. For example:

- Longitudinal surveys showed that ethnic minority school leavers across Britain are having less success than whites even when other factors, such as educational attainment, are held constant.
- Discrimination tests show that people can be rejected at the first stage of application simply by having an Asian name or coming from a non-white ethnic background.
- Gatekeeper studies show how some employers operated according to ethnic stereotypes and prejudices, and sometimes took account of the racist preferences of their white workforce.
- Research on employment agencies identify further routines of exclusion. For example, agency employees anticipate the rejection of ethnic minority candidates by their client employers and thus avoid submitting them to employers, thereby perpetuating the processes of exclusion.
- Interviews with ethnic minorities themselves showed that an awareness of potential discrimination can itself constrain their job-seeking behaviour. Furthermore, the latest Policy Studies Institute (PSI) survey revealed an increase in the proportion of those who believe that employers discriminate against ethnic minorities.

However, it is also possible to argue that the picture as revealed by research in Britain is not totally negative. Reports of discrimination have increased in a period when the position of minorities has generally improved, and the ethnic groups in which these reports have increased

the most are those that have made the most progress. This suggests that such reports are related to factors such as the awareness of the issue and the perception of the receptivity of the climate of opinion. This is helped by the fact that in Britain there is now an established tradition of critical research that has successfully brought discrimination to light, in particular through the method of discrimination testing by matched pairs. There is a legal climate that enables complaints of discrimination to come forward, and this is helped because Britain uses civil rather than criminal remedies.

The report shows the rather mixed experience of the implementation of equal opportunities and anti-discrimination policies in work organisations. There are an increasing number of major companies with high profile equal opportunities initiatives, and these have clearly had a positive impact on the profile of their workforces. However, it remains the case that relatively few companies have serious plans for implementing racial equality initiatives. The question must then be raised as to whether there is too much reliance on 'voluntary' initiatives, and whether legislation should be strengthened to apply a little more pressure on employers.

It has been argued that the work of equal opportunities proponents would be greatly assisted if employers could be convinced that there is a 'business advantage' in equal opportunity practices. This is the kind of argument stressed by the Commission for Racial Equality (CRE) in its 1995 campaign 'Racial Equality Means Business'. Probably the strongest boost to the "equal opportunities is good for business" argument came with the growing influence over the 1990s of diversity management, which stresses business advantage as part of its core philosophy. However, the CRE argues that this does not mean that earlier equal opportunities and anti-discrimination initiatives should be abandoned. A diversity policy which simply emphasises the need for all to be considered on their individual merits is unlikely to reach those who will not apply without encouragement. In other words, organisations that do not have a diverse workforce cannot begin to manage diversity. Therefore, it is not necessary to see diversity policies as an alternative to equal opportunities policies – the two are interdependent. Another criticism of diversity management is that it ignores the reality of discrimination which impacts upon individuals as members of groups and not as individuals per se. All the equality agencies in the UK (CRE, Equal Opportunities Commission and the Disability Rights Commission) support the equal opportunities model and have criticised the diversity approach as insufficient and inappropriate in the British context.

Finally, we also have seen that equal opportunities practices and diversity management are in practice virtually irrelevant for those ethnic minorities who are found in the lowest paid, least protected and most precarious sectors of employment. For this particular group of ethnic minority workers, the priority for tackling the 'ethnic inequality' they experience is not solely via direct measures such as race relations legislation but also through indirect measures such as the introduction of legislation allowing union recognition, and the effective enforcement of a national minimum wage policy.

In conclusion, it can be said that there are both positive and negative elements within the British experience, as revealed by research over recent years. While there may be no singular 'black-white' divide, 'race' and ethnicity continue to shape economic as well as wider socio-cultural divisions in Britain. Research described in this report shows that by most measures, racial disadvantage is declining and the circumstances of the minority groups are diverging. Some groups are poorly placed in educational and occupational hierarchies, others have overtaken the

white population in the acquisition of qualifications, in business ownership and in entry to some prestigious professions.

This overall picture reveals employment patterns for some sections of ethnic minority groups which are far better than that painted by surveys in previous decades, which had shown a general confinement of ethnic minorities to low skilled, low paid work. Whilst the causes of this development are many, it is not unreasonable to suppose that one part of the explanation is the role of equal opportunities policies, as well as legislation and awareness raising, in breaking down barriers of discrimination and disadvantage.

There has been a growing awareness of the issue of employment discrimination, and much progress has been made in developing policies to counter it. The recent growth of diversity management does have a positive side in the accompanying assumption that equal opportunities issues should be 'mainstreamed' in the organisation, and that racial and ethnic discrimination are to be combated. Nevertheless, it is not possible to leave issues of equal opportunities and anti-discrimination to market forces and to conventional business dynamics. The British experience has been that legal and administrative measures, voluntary policies, and the pressure on organisations from the collective actions of workers have all been necessary to bring about progress in the processes of integration of immigrants and ethnic minorities into employment.

1. THE EMPLOYMENT PROFILE OF ETHNIC MINORITIES

The post 1945 labour migration to Britain was, as in so many other countries of Western Europe, a direct response to the demand for labour in a limited number of industrial and employment sectors. Initially, Britain recruited "European Voluntary Workers" from refugee camps and from Italy. Later labour migration came from ex-colonies, primarily the Caribbean, India and Pakistan, to find employment in, for example, foundries in the Midlands, textile mills in the North, transport industries in major cities, and the health service. These people generally occupied the low-paid jobs avoided by the white majority.

Post-war migrants to Britain were different to the "guestworkers" found in many other European countries. Because of their former colonial status a large proportion of the UK migrants had the same political and legal rights as the indigenous population (for example, possessing voting rights in both local and national elections). Coming from former colonies they often had knowledge of the language and culture of their new home. Relatively quickly they ceased to be "migrants" or temporary labour and became permanently settled ethnic minorities. Nevertheless, for a long time they remained in a subordinate position in employment compared to white British workers, and for many employers they were seen as a workforce of last resort (Brown 1992). They continued to be employed in a relatively restricted spectrum of occupational areas, over-represented in low-paid and insecure jobs, and often working anti-social hours in unhealthy or dangerous environments.

However, by the 1990s the picture had become more complex. In the migrant receiving countries of western Europe there has been a shift from temporary labour to permanent settlement, and migration itself has become increasingly economically differentiated, leading some commentators to question the relevance of old political economy based theories of migration as a reserve army of unskilled labour (Castles and Miller 1993). In Britain the post

war immigrant populations and their descendants now constitute an increasingly differentiated group in terms of their employment and economic profiles.

The first section of this chapter will look at the current employment profile of ethnic minorities in Britain. First of all it will draw on an analysis of the 1991 census carried out by David Owen (Wrench and Owen 1995). Next it will add to this some observations from later analyses including the fourth Policy Studies Institute (PSI) survey (Modood et al. 1997), and finally include some recent data on the Irish in Britain, and on ethnic business. It should be noted that the UK Census had for the first time in 1991 an 'ethnic origin' question with the following options:

- White
- Black- Caribbean
- Black - African
- Black - Other
- Indian
- Pakistani
- Chinese
- Asian - Other
- Other - Other.

The question proved remarkably effective in eliciting responses within the categories offered but identity has continued to be debated, and new forms of self-definition continue to emerge, superseding earlier group labels. These categories are a means of collecting data on those who do not choose 'white' and are not meant to be a reflection of current nationality, place of birth or recent arrival. Hence, some who choose to call themselves 'Indian' may be second or third generation 'British'.

The 2001 Census questions have now been approved and a revised ethnic origin category will be used, following significant pressure from the CRE. This will be different in England/Wales than in Scotland, and will focus upon identify as well as ethnic origin. Thus, new categories in Scotland include the use of "Asian Scottish". The religious question will also be included, again different in Scotland than in England/Wales. In Scotland two questions on religion will be asked, firstly relating to the religion in which the individual was raised and secondly to the religion to which he/she is currently affiliated. The rationale behind these questions is to inform public policy as to service needs of the British population.

1.1. Patterns of economic activity

The 1991 census showed that the degree of participation in the labour market of minority ethnic groups taken as a whole is markedly less than that of the white ethnic group, for both men and women.¹ Some country and regional differences occur across the UK, in geographical

¹ The comparison of economic inactivity rates is not without its problems. For example, full-time students are conventionally included amongst the economically inactive, even though they are in fact actively preparing

distribution and in issues confronting different populations. Overall, nearly 80 percent of men and just over half of all women from minority ethnic groups who are of economically active age are either working or seeking work. However, this average conceals considerable differences between ethnic groups. On the whole, people from the Black ethnic groups are more likely than those from Asian or Other ethnic groups to be in the labour market. Economic activity rates for Black-Caribbean and Black-Other men are comparable with the white ethnic group, while Black-Caribbean women display the highest economic activity rates, and those for Black-Other and Black-African women are higher than for women from other minority ethnic groups. Indian men and women stand out as having higher economic activity rates than the remaining ethnic groups, while Pakistani, Bangladeshi and Chinese men have the lowest economic activity rates. The differentials between ethnic groups are wider for women, with more than half of women of working age being in the labour force in all ethnic groups except the Pakistanis and Bangladeshis, for whom the percentages economically active decline to 28.3 and 22.2 respectively.

There are equally large differences between ethnic groups in their types of economic activity. In general terms, people from minority ethnic groups are less likely than white people to be working, more likely to be unemployed, and also more likely to be 'economically inactive' (this includes full-time students, the 'permanently sick', retired people and people who are not in the labour force for 'other reasons', such as looking after a home or family full-time). Less than two-thirds of men and under half of women from minority ethnic groups in the working age range are actually in work. For men, this percentage is lowest for the Black-African, Bangladeshi and Pakistani ethnic groups, and highest for the Indian, Other-Asian and Chinese ethnic groups. While men from Black ethnic groups are more likely to be in the labour market, the percentage unemployed is about twice as high as for the white, Indian, Other-Asian and Chinese ethnic groups. On the other hand, Pakistani and Bangladeshi men are both less likely to participate in the labour market than men from other ethnic groups, while those in the labour market are more likely to be unemployed.

In contrast with men, Black-Caribbean women are more likely than women from other minority ethnic groups to be in work, this percentage being almost as high as that for white women. They also differ from other women from minority ethnic groups in having a much smaller percentage outside the labour market. Among other ethnic groups, percentages in work are highest for the Black-Other, Indian, Chinese, Other-Asian and "Other-Other" ethnic groups. At the other extreme, only a fifth of Pakistani women and 14.5 per cent of Bangladeshi women in the economically active age range were working in 1991. With the exception of Chinese women, the percentage of women aged 16-59 who were unemployed was much higher for the minority ethnic groups than for white women, and very much higher for women in the Black ethnic groups (highest for Black-African women). For most other minority ethnic groups, around 7 to 8 per cent of 16-59 year old women were unemployed, about twice the corresponding percentage for the white ethnic group.

1.2. Types of employment

themselves for an entry into the labour market at a higher level than if they were to seek immediate employment. This is particularly relevant to cross-ethnic comparisons, for most ethnic minorities have higher, sometimes much higher, participation rates in post-16 full-time education than whites. A high economic inactivity rate should not therefore be assumed to be a 'problem'.

There are marked differences in types of work carried out across ethnic groups and between men and women. Later in this section, the differential incidence of self-employment across the ten ethnic groups will be considered. Here attention is focused upon people who are employed by others, distinguishing those employed full-time (that is working for 31 or more hours per week) from those working part-time. A dramatic feature of employment change in Britain during the last two decades has been the contraction of full-time employment (particularly for men) and the growth of part-time employment (particularly for women). Over the period 1971-92, male employment (mainly full-time) contracted by 2.15 million (26.1 per cent), while female part-time employment grew by 1.97 million (71.2 per cent). Since the overall number of employees only fell by 342 thousand over the same period, there was clearly a relative shift in the composition of the employed labour force, from men employed full-time to women employed part-time.

Overall, 81 per cent of men in work are employees, all but 3.5 per cent being full-time employees. In contrast, 92.1 per cent of women in work are working for someone else, but just over a third of all in work are part-time employees. Amongst men, the incidence of part-time employment is greater for minority ethnic groups than for the white ethnic group, but there are marked differences between individual ethnic groups. Indeed, the percentage of all in work who are full-time employees is highest for Black-Caribbean men, at 83 per cent, followed by Other-Asian men. Full-time employment is less common for men from ethnic minority groups than white men, because self-employment is more common, accounting for the particularly low percentages of South Asian and Chinese men who are full-time employees. Part-time employment is less important as a source of work in the Indian than the white ethnic group, but for all other minority ethnic groups, part-time employment accounts for a larger share of all men in work. This percentage is highest for Black-African men, at 9.8 per cent of all those in work, and is around 5 per cent of all in work for most other minority ethnic groups, being somewhat lower for Black-Caribbean men and somewhat higher for Black-Other men.

The incidence of part-time employment is much higher for women in all ethnic groups, but it is much more common among white women than among women from minority ethnic groups. Overall, more than two-thirds of women from minority ethnic groups in work are full-time employees, compared to 55.6 per cent of white women. Full-time employment is most common in the Black ethnic groups, with over three-quarters of Black-Caribbean women in work employed full-time. In the Black-African, Indian, Other-Asian and Other-Other ethnic groups, about two-thirds of working women are full-time employees, and only in the Pakistani, Bangladeshi and Chinese ethnic groups does the percentage employed full-time fall to levels comparable with white women. However, this is a result of the larger percentage of women in these ethnic groups who are self-employed, since there is relatively little variation among women from minority ethnic groups in the percentage employed part-time, which lies in the range 19.7 per cent (Black-Other) to 24.2 per cent (Other-Other). Part-time working is also more common in the Black-African, Chinese and Other-Other ethnic groups.

1.3. Sectoral composition of work

There are marked differences between ethnic groups and men and women in the types of work in which they are engaged. In the population as a whole, men are most commonly employed in engineering, construction, distribution, transport & communications and banking, insurance & business services. There is a strong gender division of labour by industry, with the most common industries in which women work being distribution, public health & education, miscellaneous services and banking, insurance & business services. For minority ethnic groups as a whole, the distribution of female employment is very similar to that of white women. However, men from minority ethnic groups are much more likely than white men to work in the textiles & clothing, distribution, transport & communications and public health and education industries, and much less likely to work in the primary sector and the construction industry.

The relative sectoral concentration of the main individual minority ethnic groups will now be outlined, highlighting the sectors in which an ethnic group is over-represented relative to white people (i.e. having a larger share of total employment than for white people);

- *Black-Caribbeans*: Men are over-represented in transport & communications and engineering, with a relatively high percentage employed in distribution. Women are relatively under-represented in the main industries employing women, but over-represented in the public health & education services and miscellaneous services.
- *Black-Africans*: Men are over-represented in all the service sector industries, most notably in transport & communications, public health & education and miscellaneous services, and to a lesser extent in business services and public administration. Women are over-represented in textiles & clothing, and all service sector industries, in a similar fashion to men from the same ethnic group, but with public health & education being the largest single employer.
- *Indians*: Men are over-represented in the engineering, textiles & clothing, distribution, transport & communications and public health and education sectors. Women are also over-represented in the engineering and textiles & clothing industries, together with distribution.
- *Pakistanis*: Men are over-represented in textiles & clothing, distribution and transport & communications. Women are over-represented in the same three industrial sectors.
- *Bangladeshis*: Men are largely found in the textiles & clothing and distribution industries, the latter containing two-thirds of all men in work. Women are concentrated into the textiles & clothing, distribution, public health & education and public administration industrial sectors.
- *Chinese*: 60.5 per cent of men and 50.9 per cent of women work in the distribution sector, both genders are slightly over-represented in the insurance, banking & business services sector, and men are slightly over-represented in public health & education.

1.4. Occupational distribution of work

The most common occupations for men are corporate managers, other skilled trades, industrial plant and machine operators, skilled engineering trades and managers and proprietors in agriculture & services. The gender division of work is strongly apparent - the most common occupations for women are clerical, secretarial, personal service, other elementary and other sales occupations. There is also a clear distinction in the occupations followed by white people and people from minority ethnic groups. Amongst minority ethnic groups, men are most likely to be proprietors, industrial plant & machine operators, other associate professionals, in clerical occupations, or in other elementary occupations, and are also over-represented as health professionals. They are under-represented as corporate managers, science and engineering associate professionals and in skilled manual jobs. The largest occupations for women from minority ethnic groups are clerical, personal service, other elementary and secretarial occupations, as health associate professionals and as industrial plant and machine operators. Turning to individual ethnic groups;

- *Black-Caribbeans*: Men are over-represented in skilled engineering and other trades, semi- and un-skilled industrial occupations, clerical occupations and personal service occupations. Women are over-represented in health associate professional occupations, together with clerical, secretarial, personal service and semi- and un-skilled industrial occupations.
- *Black-Africans*: Men are over-represented in professional occupations, and also associate professional occupations, notably in the health service. They are also over-represented in clerical, personal service and other sales occupations, together with "other elementary" occupations. Women are over-represented in the health associate professional, clerical, "other professional" and other elementary occupations.
- *Indians*: Men are over-represented as proprietors, in science & engineering, health and other professions, in clerical occupations and in semi- and un-skilled industrial occupations. The largest occupations for women are clerical, industrial plant & machine operators, other skilled trades and managers & proprietors, but they are also over-represented as health and other professionals and science & engineering associate professionals.
- *Pakistanis*: Men are over-represented as proprietors, in health professions, as industrial plant and machine operators and as drivers. Women are over-represented as managers & proprietors, health professionals, science & engineering associate professionals, other associate professionals, in other skilled trades, in other sales occupations and as industrial plant & machine operators.
- *Bangladeshis*: By far the largest occupation for men is personal service occupations (e.g. waiters), with managers & proprietors and health professionals also over-represented. Women are over-represented as science & engineering, teaching and other professionals, as other associate professionals, in other sales occupations and as industrial plant and machine operators, but their most common occupation is other skilled trades.
- *Chinese*: The two largest occupations for men are personal service occupations and managers & proprietors, but they are also over-represented in science & engineering, health and other professions. Women are most strongly over-represented as managers & proprietors and in personal service occupations, but are also over-represented as health and other professionals, and as health and other associate professionals.

1.5. Job level

The 1994 PSI survey (Modood et al. 1997) found that white men in work were quite evenly divided between non-manual and manual work and that the position of Indians and African Asians was similar (Table 1.1), while two-thirds of Chinese men were in non-manual work. In contrast, about two-thirds of Caribbeans, Pakistanis and Bangladeshis were in manual work. The Caribbeans at 14 per cent had the lowest representation in the top category of professionals, managers and employers, while nearly half the Chinese men were in this category. Both whites and African Asians had around a third in this group, with Indians a little lower at a quarter. The proportion of most groups in the skilled manual or foreman category was between 30 and 40 per cent. For Pakistanis it was higher at nearly half the total, and for Bangladeshis and Chinese it was markedly lower, although the sample sizes were small, parti-

Table 1.1 Job levels of men (base: male employees and self-employed)

Socio-economic group	<i>column percentages</i>						
	White	Caribbean	Indian	African Asian	Pakistani	Bangladeshi	Chinese
Prof./managers/employers	30	14	25	30	19	18	46
Employers and managers (large establishments)	11	5	5	3	3	0	6
Employers and managers (small establishments)	11	4	11	14	12	16	23
Professional workers	8	6	9	14	4	2	17
Intermediate and junior non-manual	18	19	20	24	13	19	17
Skilled manual and foreman	36	39	31	30	46	7	14
Semi-skilled manual	11	22	16	12	18	53	12
Unskilled manual	3	6	5	2	3	3	5
Armed forces or N/A	2	0	3	2	2	0	5
Non-manual	48	33	45	54	32	37	63
Manual	50	67	52	44	67	63	31
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<i>Weighted count</i>	789	365	349	296	182	61	127
<i>Unweighted count</i>	713	258	356	264	258	112	71

cularly for the former. All ethnic groups had very small proportions who were unskilled manual workers. The most striking differences were in the incidence of semi-skilled manual work. Over half the Bangladeshi men in work were in semi-skilled manual work compared with one in five Caribbeans, one in six Indians and Pakistanis and one in ten whites, Chinese and African Asians. All the minorities were distinctly less likely than white men to be employers and managers of large establishments. Indeed, insofar as South Asians and Chinese were well represented in the broad professional, managerial and employers category it was significantly because of the contribution of self-employment.

Turning to women, it is immediately apparent from Table 1.2 that far fewer women than men were in the top professional, managerial and employers category. Overall the proportion was

around half that of men. The variation across groups was, however, similar to that of the men. Chinese women, at 30 per cent, were almost twice as likely as whites to be in this category. Just over one in ten of all the South Asian women in employment, but only one in 20 Caribbeans, were in the top occupational group. Unlike men, however, a large majority of women in all groups were in non-manual work, ranging from the Chinese (76 per cent) to the Indians (58 per cent). This means that more than half of working women in each ethnic group were in intermediate or junior non-manual work, rising to nearly two out of three for Caribbean and African Asian women. This reflects the economy-wide concentration of women in clerical/secretarial and sales occupations. For women, as with men, the Pakistani and Indian women's presence in the top non-manual work category was strongly influenced by self-employment. Excluding the self-employed, only around 6 per cent of Pakistani and Indian women were in the top non-manual category, less than the African Asians (10 per cent) and much less than white (15 per cent) and Chinese (25 per cent) women. On the other hand, the overwhelming majority of women of all groups who were in skilled manual work were self-employed. Apart from the top non-manual category and its mix between employees and self-employed, the differences in job levels between women of different ethnic origins were considerably less than the differences among men, and there was not the division between minorities. This suggests that gender divisions in the labour market may be stronger and more deeply rooted than differences due to race and ethnicity (Modood et al. 1997: 100- 104).

Table 1.2 Job levels of women in work (base: female employees and self-employed)

	<i>column percentages</i>					
	White	Caribbean	Indian	African Asian	Pakistani	Chinese
Professional, managerial and employers	16 (15)	5 (5)	11 (7)	12 (10)	12 (6)	30 (25)
Intermediate non-manual	21	28	14	14	29	23
Junior non-manual	33	36	33	49	23	23
Skilled manual and foreman	7 (2)	4 (2)	11 (3)	7 (3)	9 (3)	13 (-)
Semi-skilled manual	18	20	27	16	22	9
Unskilled manual	4	6	4	1	4	2
Armed forces/inadequately described/not stated	0	1	1	1	0	0
Non-manual	70	69	58	75	64	76
Manual	29	30	42	24	35	24
----	----	----	----	----	----	----
<i>Weighted count</i>	734	452	275	196	60	120
<i>Unweighted count</i>	696	336	260	164	64	63

1 The figures in parentheses are exclusive of self-employed.

1.6. Earnings

The PSI Fourth Survey includes data on earnings.² These are presented in Table 1.3, which shows separately the average earnings of full-time employees and the self-employed and of men and women. The average for ethnic minority full-time employees was below that for white

² In recent years, the LFS too has collected data on earnings by ethnicity. The findings are of a broadly similar pattern to the Fourth Survey (Modood et al. 1997:115).

men, but there was in fact parity between whites, African Asians and the Chinese, with the Caribbean men a bit behind, Indians even more so, and the Pakistanis and Bangladeshis more than a third below whites. The position of full-time female employees was quite different. Female weekly earnings were considerably lower than men's in all ethnic groups, but the biggest gender gap was among whites. Indeed, the average earnings of ethnic minority women were higher than those of white women. This is an important finding which shows limits to demonstrating through earnings comparisons the idea of 'double discrimination', the view that, besides the general disadvantage of women, non-white women suffer an additional inequality in comparison to white women (Bhavnani 1994). Double discrimination need not necessarily show itself through earnings, particularly if much of the female population is working in ethnic minority-owned businesses and not in the mainstream private sector. The highest average earnings were of Caribbean women (the Chinese women's were higher but the sample size is small). The differences between groups of women, however, were less than in the case of men.

While white male employees earned more than their self-employed counterparts, the reverse was true of ethnic minorities apart from African Asian men. Taken as a whole, self-employed ethnic minority men earned more than whites, and so self-employment can be seen to contribute to narrowing the earnings gap, especially for Indians and Caribbeans (and places Chinese men as the highest earners, though the sample is too small for confidence). As with paid employment, ethnic minority women in self-employment on average earned more than their white peers (though the sample sizes are relatively small) and so female self-employment consolidates the earnings advantage of ethnic minority women (except Pakistanis and Bangladeshis). The findings strongly suggest that, contrary to some negative characterisation of ethnic minority self-employment, the latter is a relatively attractive option (Modood et al. 1997: 120-121).

Table 1.3 Comparison of earnings of full-time employees and self-employed

	White	Caribbean	Indian	African Asian	Pakistani	Bangladesh	Chinese	All ethnic minorities
Men								
Employees	£336	£306	£287	£335	£227	£191	£336	£296
Self-employed	£308	(£347)	£361	£321	£232	(£238)	(£466)	£327
Employees and self-employed	£331	£311	£302	£331	£229	£198	£368	£303
----	----	----	----	----	----	----	----	----

Weighted

<i>count</i>								
<i>Employees</i>	541	255	154	152	76	42	72	751
<i>Self-employed</i>	110	33	41	53	44	7	23	202
<i>Combined</i>	651	288	195	205	120	49	96	953
----	----	----	----	----	----	----	----	----
Women								
<i>Employees</i>	£244	£267	£252	£254	(£181)		£287	£259
<i>Self-employed</i>	£242	(£349)	(£370)	(£219)	(£251)		(£249)	£290
<i>Employees and self-employed</i>	£244	£270	£268	£251	£189		£274	£262
----	----	----	----	----	----		----	----
<i>Weighted count</i>								
<i>Employees</i>	345	278	103	90	34		48	552
<i>Self-employed</i>	46	10	15	9	4		25	64
<i>Combined</i>	391	288	118	99	38		73	616

Figures in parentheses denote small cell sizes.

1.7. Unemployment

Minority ethnic groups suffer much higher rates of unemployment than do people from the white ethnic group. For males, the average unemployment rate is nearly twice that for the white ethnic group, while the differential is even greater for females. Amongst all men aged 16-64, unemployment rates are highest for the Bangladeshi, Black-African and Pakistani ethnic groups, reaching a maximum of 30.8 per cent, nearly three times the white unemployment rate. Unemployment rates for men from the other Black ethnic groups are slightly lower, at around a quarter of the economically active, while about a fifth of men in the "Other-Other" ethnic group are unemployed. In striking contrast, the unemployment rate for Chinese men is slightly below that for men from the white ethnic group while those for Indian and Other-Asian men are about 25 to 30 per cent higher. The pattern of unemployment rates amongst women aged 16-59 displays marked differences. The Pakistani and Bangladeshi ethnic groups again display the highest unemployment rates, and are higher than the corresponding male unemployment rates, despite the fact that female unemployment rates are generally markedly lower than those for men. A quarter of Black-African women are unemployed, an unemployment rate well above those of the other Black ethnic groups. Chinese women display the lowest unemployment rate, but in contrast to men, this is higher than the rate for the white ethnic group. Other-Asian and Indian women again display the next lowest unemployment rates, very similar to those of men in the same ethnic groups, and just lower than the unemployment rates for Black-Caribbean and Other-Other women.

Rates of youth unemployment tend to be higher than for the working age population as a whole. For the white ethnic group, the unemployment rate for 16-24 year olds is about 60 per cent higher for males and 75 per cent higher for females. For minority ethnic groups as a whole, the 16-24 year old male unemployment rate is 52 per cent higher than the 16-64 year old unemployment rate, while the female youth unemployment rate is 60 per cent higher than the rate for 16-59 year olds. The pattern of unemployment by ethnic group is somewhat different for 16-

24 year olds, compared with all persons of working age. Amongst males, Black-Africans have the highest unemployment rates, and all three ethnic groups experience unemployment rates of over 35 per cent. Amongst other ethnic groups, only Pakistanis experience unemployment rates as high. In contrast to all men, Bangladeshis have an unemployment rate lower than Indians, but even so, a fifth of all economically active 16-24 year olds are out of work. Once again, the lowest unemployment rate is experienced by Chinese men, and again this is below the unemployment rate for white men. The pattern for young women is quite different. Bangladeshi, Black-African and Pakistani women suffer the highest unemployment rates, in the latter case almost twice as high as that for Bangladeshi young men. In the other Black ethnic groups, about a quarter of women aged 16-24 are unemployed. The lowest unemployment rate is again that of Chinese women, which is lower than the corresponding figure for men, as is the Indian unemployment rate, which lies just below those for the Other-Asian and Other-Other ethnic groups.

The impact of the younger age structure of minority ethnic groups and the higher unemployment rates experienced by young people upon the higher overall unemployment rates experienced by minority ethnic groups may be gauged by the contrasts in the median age of the unemployed between ethnic groups. For white men, this average is 3.6 years higher than for white women, both figures being about a year greater than the corresponding averages for minority ethnic groups as a whole. For Black-Caribbean and Black-African people, the median age of the unemployed is just under 30 years, and the median age of unemployed Other-Other people is also around 30 years. The impact of high youth unemployment rates upon the overall average is thus relatively large for these ethnic groups. In marked contrast, the median age of the unemployed in the Asian ethnic groups is relatively high, in most cases above the corresponding figure for the white ethnic group, despite their younger age distributions. This is particularly striking for Bangladeshi and Chinese men and Other-Asian, Chinese and Indian women. This pattern may result from the tendency for unemployment rates to rise in later middle age, and may reflect unemployment amongst older people who were relatively early migrants and who have been affected by the contraction of employment in traditional industries such as textiles and engineering, which were important sources of employment for South Asian migrants.

This question of age ranges of different ethnic groups is particularly significant now, 10 years from the last census. Those registered in 1991 in full-time education or otherwise economically inactive could now be expected to be economically active. The 2001 Census should give important comparisons for further research.

1.8. Self-employment

One of the most dynamic features of employment in the 1980s was the growth of self-employment, strongly encouraged by government policy aimed at increasing the level of 'enterprise' in the British economy. The number of persons self-employed increased by 49 per cent between 1971 and 1992 (during which period the number of employees contracted by 1.6 per cent) and the bulk of this growth occurred between 1981 and 1990. There are two broad types of self-employed person. The first are people running their own businesses, and the second are people who are contracted to work for others on a self-employed basis. The latter category has long included many workers in the construction industry and professional people such as doctors. However, it expanded during the 1980s because an increasing range of activities were 'contracted out' by businesses and public sector services which wanted to focus on their core activities and pay outside contractors to provide these services, often using staff

who were nominally self-employed and hence responsible for their own national insurance contributions (thus reducing their employment costs). Official statistics do not readily distinguish small business people from the rest of the self-employed, but the Census of Population splits the self-employed category into those with and without employees. The bulk of entrepreneurs will be in the former category, though the latter will also include some people running businesses on their own (and possibly making use of informal family labour).

The share of ethnic minorities in the total of self-employed people is slightly higher than their share of the population as a whole. However, within this aggregate pattern, Black groups are substantially under-represented while South Asians, particularly Indians, are relatively more prominent among the self-employed.

For ethnic minorities as a whole, self-employment is a more important form of economic activity than for white people. However, there is a marked contrast between the experience of Black groups and all other ethnic minorities. For all Black ethnic groups, the percentage of the working population self-employed is just over half the national average rate, and well below the average for minority ethnic groups as a whole. Among the three Black ethnic groups, Black-Caribbean people are less likely to be self-employed than people from any other ethnic group. Self-employment is much more common in the Asian ethnic groups, with the percentages of working people self-employed for the South Asian and "Chinese and Other" ethnic groups being well above average. Self-employment is most common for Chinese, Pakistani and Indian people, with Other-Asian people distinguished by their low rate of self-employment. The percentage of working people from the "Other-Other" ethnic group who are self-employed is slightly above the national average.

Those people who are self-employed with employees may be regarded as small businessmen, a category of activity which has received considerable encouragement in recent years. Minority ethnic groups are more likely to contain small-business people than the white ethnic group, but once again Black ethnic groups are far less well represented than Asians. Indeed, the proportion of entrepreneurs amongst the economically active and employed populations is only about a third of the corresponding rate for white people and less than a fifth of the rates for South Asians. The Chinese stand out as having the highest rates of entrepreneurship, followed by Bangladeshis in terms of the contribution of entrepreneurs to the total in work. Indians and Pakistanis display similar rates of entrepreneurship. The percentage of all self-employed people who have employees is again higher for minority ethnic groups than for white people. Moreover, it is much higher for Asian ethnic groups than for Black ethnic groups. This percentage is highest of all for the Bangladeshi and Chinese ethnic groups, followed by the other Asian ethnic groups, while the percentage for Black people is well below that for the white ethnic group. There are a number of implications of these patterns. First, for Asian ethnic groups, self-employment is more a reflection of small-business creation than for Black and white people, which may be a consequence of migrants exploiting particular opportunities or being unable to obtain access to work as employees. Second, the Asian ethnic groups are thus also creating jobs through forming their own businesses. Third, the Black ethnic groups are less likely to be self-employed for positive reasons, and the smaller percentage of workers from these ethnic groups working on their own account may therefore be doing so because of changes in employment contracts.

1.9. Ethnic minority self-employment

As we have above, the representation of self-employment and small business formation within certain ethnic minority groups of immigrant origin is greater than that for the British population as a whole. The growth of ethnic minority business has therefore belied some of the earlier analyses which predicted that these businesses would prove to be an economic dead-end (Aldrich et al, 1981). It has been estimated that Asian and black businesses represent almost seven per cent of the total small business stock, and that in London there are at least 15,000 such businesses – around one in five of all privately-owned businesses in the capital – employing between them over two thousand people in full and part time work.³ In 1997, around nine per cent of all new business start-ups involved entrepreneurs from Asian or black backgrounds. The Bank of England has estimated that in 1996 the contribution of black and Asian people to GDP was around £37bn. Many Asian and black businesses have potential for import/export.⁴ Furthermore, Asian businesses make a substantial contribution to social and economic affairs through their involvement in independent retailing – the ‘corner shop’, known technically in statistics as the confectionery, tobacconist and newsagent (CTN) sector. It has been estimated that around three quarters of all independent newsagents in London are owned by people of Asian origin.⁵ Local shops respond to customers’ special requests and preferences, help to revitalise the areas in which they are located and play a vital role in maintaining a sense of community and continuity. The greater the use of local streets and public spaces, the greater the sense of safety and community spirit. The sector is now under intense pressure, however, from one-stop supermarket shopping and out-of-town shopping centres. It is affected also by reluctance on the part of the next generation to join the family business, not least because of the long hours and the prevalence in some areas of racist abuse and attacks. A study by the Asian Business Initiative found in 1999 that ‘a sense of hopelessness ... pervades this sector’ and suggested that ‘long hours and low margins are not conducive to managing the external environment actively and planning the business proactively’⁶.

Recent research has focussed on explaining the growth of the South Asian and Chinese self-employment. Analyses differ in the importance they attribute to factors of ‘culture’ or ‘structure’ in its development. Whilst some emphasise the element of choice and the strong ties of family and community in accounting for Asian over-representation in business, others emphasise the discrimination in society which places barriers in the way of ethnic minorities, making it difficult for them to achieve economic success and social mobility by other means. While there is much debate about the relationship between these two sets of factors, it is difficult to explain the phenomenon of ethnic minority self-employment without each of them. On the one hand, it is clearly related to structural factors: Asian self-employment took off in the late 1970s, at a time of high unemployment. On the other, it is clearly related to ethnicity, since it is to be found more amongst some groups than others.

³ Cited in Bank of England, *The Financing of Ethnic Minority Firms in the United Kingdom*, 1999. See also London TEC Council, *Strength Through Diversity: ethnic minorities in London’s economy*, 1999. The term ‘small business’ refers to firms with fewer than 50 employees. The term ‘Asian and black businesses’ refers to firms whose owner is Asian or black. We are grateful to Robin Richardson for helping us locate the latest data.

⁴ The London TEC Council found in 1999 that eight per cent of Asian and black businesses in London operate in EU or international markets, compared with five per cent of white businesses.

⁵ See Asian Business Initiative, *Newsagents Mean Business*, 1999.

⁶ *Ibid.*

In one of the most recent studies, Ram and Jones (1998) argue that the culturalist approach over-emphasises processes internal to the ethnic community and fails to take account sufficiently of what is happening outside it – the 'opportunity structures' of markets, and of financial and state institutions. "However efficiently a minority community mobilises its internal business resources, the outcome will be heavily shaped by this external commercial environment" (Ram and Jones 1998: 10). Amongst other things, they suggest that bank staff might be trained to appreciate more fully the dynamics of ethnic minority firms, and that banks should improve their networking with minority-led support agencies (Ram and Jones 1998: 53). This approach has been reinforced by the review by the Bank of England, which has stressed that there is a perception amongst Asian and black businesses that they meet institutional racism in the provision of financial services.

Whilst Ram and Jones are unable to explain why some minority groups take up a self-employment strategy in a major way when others in the same circumstances do not, they do accept that once a particular ethnic group develops an entrepreneurial record, the existence within that community of entrepreneurial role models does have an effect on the next generation, who are shown business as a viable career option." While being Asian as such does not make one a potential entrepreneur, this artificially constructed group identity does influence the career expectations of the new generation" (Ram and Jones 1998: 25).

The Asian over-representation in small businesses is examined in more detail by Metcalf et al. (1996) in a secondary study to the fourth PSI survey (for a summary, see Modood et al. 1998). They demonstrate that, rather than treating Asians as a single category, it is important to take into account the different educational, economic, cultural and religious profiles between South Asian groups when looking at pre-dispositions to self-employment, and their experiences within the small business sector. For example, it seems that many Pakistanis entered business to escape from poor alternative employment options and racism in the labour market, whereas for Indians the entry into business was more of a positive choice. Moreover, an analysis of questions of to what the self-employed attributed business success, and of constraints on choice of business sectors, showed the significance of religion amongst Pakistanis, a finding confirmed elsewhere (Ram 1999). This suggests that at some level 'opportunity structures' are not culture-neutral but at least in some cases cannot be defined independently of ethnic group norms and attitudes. A case in point is how Asians have expanded the retail sector by opening shops and other outlets in the evenings and weekends contrary to prevailing British practice. They seized an opportunity which in some sense did not exist for white British at the time but which has now led, with the mainstream following the Asian lead, to major changes in shopping habits, commercial practice and the law.

The character and current high levels of Asian self-employment cannot however be taken for granted to continue into the future. While some businesses have reached a scale of development that means that ethnic minority groups like Indians are over-represented amongst multi-millionaires (Modood et al. 1998: 64-65) and many have long ceased to be merely 'family' or 'ethnic' businesses, the large majority of businesses are modest in size and revenue. The PSI study found that half of the proprietors of such businesses did not wish any of their children to succeed them (Metcalf et al. 1996: 120-121). The PSI researchers suggest that this is exactly the same phenomenon found amongst the white petit bourgeoisie. Namely, while shop-keeping may have low social status and limited economic rewards, it is seen as an intergenerational 'springboard' to launch one's children into prestigious professional careers. In this and other

ways the future of ethnic minority enterprise depends upon to what extent discrimination in the professional labour markets persist.

1.10. The Irish in Britain

Analyses of ethnic minority participation in the British labour market usually confine themselves to the non-white minorities, and do not separate out the Irish minority as a group for analysis. Recent publications have argued that there is enough difference in the Irish experience to justify their status as a separate analytical category, at the same time questioning the dominant paradigm that racism is only about skin colour (for example, Hickman 1995; Hickman and Walter 1997). The CRE has recommended since 1992 that the Irish category be included in ethnic monitoring exercises and this category will be included in the 2001 Census.

The 1991 census shows that Irish-born men's occupations are rather similar to those of the whole population. They are under-represented in 'white collar' occupations but are slightly over-represented in professional work (Hickman and Walter 1997: 37). Irish women, on the other hand, are more strongly clustered into particular occupational groupings. Much higher than average proportions of Irish women are in occupations such as nursing, and also in personal services such as domestic and catering work. There are therefore two very different groups of Irish women – highly qualified nurses and low-skilled personal service workers (Hickman and Walter 1997: 37). This is consistent with a general dual pattern of labour migration from Ireland – highly trained professionals for whom there is a skill shortage, and low paid manual workers doing the jobs which are rejected by the indigenous population (Hickman and Walter 1997: 38). Analysis by age suggests that the balance has shifting towards professionals: Irish men and women under the age of 30 in 1991 were more likely to have a degree than men and women in the population as a whole.

Irish born men had a higher than average unemployment rate in 1991 (15.1 per cent compared with 11.3 per cent for the total male population). Like some of the other minority ethnic groups, many Irish worked in manual trades which are disproportionately affected by recession. On the other hand, Irish women's unemployment rate in 1991 was almost identical to that of the total population.

The fact that the rates of unemployment for Irish men are higher than those of white men but much lower than those of non-white minority ethnic workers, suggests the existence of a 'hierarchy of disadvantage'. This is consistent with the evidence of tests for discrimination in employment, as reviewed in the next section.

The Census shows that in terms of social class Northern Irish-born men in England were more likely to be in the highest class, Class I, and as likely to be in Class II, as the English-born. They were, however, also more likely to be in the lowest class, Class V. The Republic-born were much more likely to be in Class V than any other group of men, including Pakistanis and black British. In general, the Republic-born were disproportionately in the lower ranked classes. A British Market Research Bureau survey in February 1998 included some questions commissioned by the Irish Post. Its random sample of 6,151 included 317 Irish-born (5%). It found that over the past 5 years, the number of Irish earning more than £20,000 had increased by half. One in six Irish men is earning more than £30,000, compared with one in nine other

Britons⁷. It seems that at the time of the main post-war labour migration, Irish migrants shared some similar characteristics to some non-white migrant groups. Recent Irish migration, however, is of young, highly qualified persons seeking and finding professional and managerial careers. This is rapidly changing the overall profile of the Irish-born.

1.11. Education

The importance of educational attainments lies not just in their importance in accessing the better jobs and achieving social mobility. It is also significant because the attainments of (most) ethnic minority groups have proven to be quite remarkable, bearing in mind that one of the main stimulus to research on the educational attainments of non-white ethnic minority groups was the concern in the 1970s that children from these groups were 'underachieving' in schools.

The 1991 Census is a source of information only about qualifications higher than A-levels⁸. On the basis of a 10 per cent sample of the population, it found that more than a quarter of adult Black Africans and Chinese were qualified beyond A-levels, which was double that of whites. Indians and African Asians were also relatively more qualified than whites, but the other minority groups were less so, though Pakistani and Bangladeshi men were more likely than Caribbean men to have degrees. Caribbean women were, however, much better qualified than all except the Black African and the Chinese at the level between A-levels and degrees (OPCS 1993, Table 17). The Fourth Survey, which covered all qualification levels confirmed these findings (though Black Africans were not included in this survey), though it found that a high proportion of the degrees of older Indians were not of a British standard. It also found that Pakistani and Bangladeshi women were much less qualified than all other women, except that Pakistani women were quite well represented at degree level.

Indeed, Pakistani and Bangladeshi men too, together with Caribbean men, were disproportionately found to have no qualifications at all. Some ethnic minorities are then disproportionately clustered amongst graduates (Africans, Chinese, African Asians), some are disproportionately clustered amongst those with no or few qualifications (Bangladeshi females, Caribbean males), some are in the middle (Caribbean females) and some are disproportionately represented at *both* ends of the qualifications spectrum (Pakistani males and females, Bangladeshi males).

A focus on young people, however, shows that there is a successful drive for qualifications amongst all ethnic minorities with perhaps the partial exception of Caribbean males. For example, no ethnic minority male or female group has a lower participation in post-16 education than white people. Moreover, while even amongst 16-24 year olds in the Fourth Survey the spread across the qualifications spectrum just referred to above still persisted, the trend at the higher spectrum has been strongly consolidated. The latest data shows that while most of the minority groups have a lower average level of attainment at the age of 16 (Gillborn and Gipps 1996; Richardson and Wood 1999), they are twice as likely as whites to be entering higher education (see table 1.4 below). Men of Black Caribbean origins (this usually includes those who choose to self-classify under 'Black-other', usually Black British) and women of

⁷ 'Irish in Britain are 'Economic Success Story'', *The Irish Post*, 26 February 1998, London

⁸ A-levels are examinations taken at the end of secondary schooling in England and Wales, generally at the age of 18. They are usually required for university entrance.

Bangladeshi origins continue to be underrepresented but the latter in particular are catching up with the general ethnic minority entry rates (cf. the data in Modood 1993). The table also shows that the only group that is underrepresented in both genders in entry into higher education is whites. This is despite the fact that a rigorous multi-variate analysis has found that Pakistani and Black Caribbean applications are less likely to be successful even after controlling for academic and social class related factors (Modood and Shiner 1994). Moreover, ethnic minorities are more likely to be in the 'older', pre-1992⁹, more prestigious universities.

Hence, in respect of educational qualifications, including degrees, whites are now and have been for some time in the middle. Whites may be at the top of the ethnic hierarchy in terms of entry into certain prestigious universities and courses, but they are certainly not best placed in terms of representation in higher education and the possession of degrees. Even in terms of prestigious universities and courses whites do not enjoy an unambiguous position at the top. For example, in the two most competitive subjects, medicine and law, ethnic minorities are much better represented than whites (Modood and Shiner, 1994). A recent study, reporting that most medical schools discriminated against ethnic minority applicants, found that in 1996-97 at one of the most prestigious schools, University College London, 41 per cent of its intake (and 52 per cent of its applications) were from ethnic minorities (McManus 1998). This is quite an achievement at the top end of competition from a population forming well under ten per cent of the age cohort.

Table 1.4 Domiciled first year full-time and part-time students, 1997-98

	% in Higher Ed	% 18-24s in Higher Ed	% of 18-24s in Great Britain	18-24s Gender balance in HE (m - f)
Whites	84.9	85.2	93.0	48* -- 52*
Indians	4.1	4.7	2.0	51 -- 49
Pakistanis	2.5	2.7	1.7	56 -- 44
B'deshis	0.7	0.7	0.65	58 -- 42*
Chinese	0.9	1.0	0.4	50 -- 50
Asian-other	1.2	1.2	0.4	52 -- 48
Africans	2.1	1.4	0.4	48 -- 52
Caribbeans	1.3	1.0	0.9	40* -- 60
Black-others	0.6	0.5	0.6	38* -- 62

* denotes underrepresentation

Source: Higher Education Statistics Agency

⁹ In 1992, UK polytechnics were given university status.

The minorities, then, have achieved double their share of higher education despite their worse parental occupational profile, linguistic and cultural adaptation difficulties and in the face of societal racism, including negative stereotyping, lower expectations and sometimes racial harassment in schools (for fuller discussion see Modood and Acland 1998).

1.12. Trends

Detailed information on the characteristics of people from minority ethnic groups in Great Britain are only available since 1981, when the government's Labour Force Survey began to ask respondents what ethnic group they belonged to. This source can be used to analyse changes in the economic circumstances of individual ethnic groups during the 1980s (though the ethnic classification used is slightly different to that used by the Census).

Examination of the pattern of employment change during the decade by ethnic group shows that the number of white people in employment increased by 9.5 per cent, while there was a growth of the number of people from minority ethnic groups in employment of 28.2 per cent over the same period. Employment change in individual occupations within industries vary from this overall figure; these differences can then be partitioned into an effect due to employment change in the industries in which that occupation is concentrated (the 'industry-mix effect') and the tendency for employment in an occupation to grow or decline across all industries (the 'occupation effect').

For white people, the higher status and more skilled occupations grew in employment rapidly while the number of blue-collar and less skilled jobs contracted. Growth was much stronger across all occupations for minority ethnic groups, with only the number of plant and machine operatives contracting significantly. The influence of industry-mix (the industrial specialisation of an occupation) was relatively minor for white people, with the exception of three occupations; craft and related and plant and machine operatives, whose decline was clearly related to the contraction of manufacturing industry; and clerical and secretarial occupations, whose growth was largely a result of the relative concentration of these jobs in industries where employment was growing. The major influence on occupational change was the secular trend for growth in higher-level non-manual jobs, and the contraction of manual and less skilled manual and non-manual jobs.

For minority ethnic groups, the influence of industrial concentration upon occupational change was magnified. The contraction of manual occupations was largely determined by the industrial effect, but in all other occupations the influence of industry structure was strongly positive. However, the occupational effect remained highly significant, with strong growth of employment amongst managers and administrators and professionals, and a rapid contraction of manual jobs, particularly the unskilled 'other' occupations.

These analyses reveal that people from minority ethnic groups appear to have experienced a similar pattern of industrial and occupational employment change to white people. Employment for minority ethnic groups grew rapidly in non-manual occupations, but the doubling of managers and administrators perhaps reflects the small numbers in this category in 1981 and the influence of growing self-employment (which also affected the growth of personal and protective services, as this includes occupations such as hairdressers with high rates of self-

employment). The exaggerated importance of the industry effect suggests the emergence of *winner*s and *loser*s amongst minority ethnic groups; those with manual skills in manufacturing industry suffered disproportionately from the economic transformations of the 1980s, while those with non-manual skills in the service sector benefited from the growth of these sectors. Given the relative spatial concentration of growing and declining activities, this has the potential to create very different labour market experience for ethnic minorities in different parts of Britain.

1.13. Recent studies

The picture of growing complexity in the employment picture of ethnic minorities in Britain, with more pronounced differences between minority ethnic groups, has been confirmed by later surveys and analyses. For example a recent analysis of data from the Labour Force Survey and the 1991 Census (Iganski and Payne 1999) concludes:

what seems to have been happening is that some sections of the minority ethnic groups (in broad terms, the first generation immigrants in Mining, Metals Manufacturing, possibly Textiles, Construction, and Transport and Communications) have indeed lost jobs due to economic re-structuring. In contrast, others (the younger workers, in other manufacturing and the services) have gained. Commentators who have argued that there has been a general immiseration of all the minority ethnic groups due to de-industrialization have generalised from the (very real) experiences of the former, and not taken account of the latter's gains from sectoral shifts.

The 1994 PSI study also confirmed the main points of the earlier analysis of the 1991 census, and was able to add some more detail. It confirms the patterns of inequality, and at the same time shows the divergence in the employment circumstances of the main ethnic minority groups. It asked the question as to whether the differences between ethnic minorities are narrowing or widening – are some groups experiencing more mobility across job levels than others? (Modood et al. 1997: 138).

Using a comparison of 1994 PSI data with the 1982 PSI survey the researchers showed that the group whose employment profile shifted the most substantially over this period was Indian men. Whilst at the beginning of the 1980s they were mainly in manual work their profile is now closer to that of white men. Modood argues that if today the ethnic minorities cannot be described collectively as being disproportionately confined to low-skilled, low-paid work, it is largely because they are returning to their pre-migration levels (Modood et al. 1997: 141). Many of the original post-war immigrants had professional-class origins, or came from petty bourgeois or farming classes, and experienced downward social mobility when they took manual jobs in Britain. The PSI survey showed that amongst the first generation, Indian men were among the most qualified. "It is, therefore, not inappropriate to see the above average social mobility among some minorities as a process of reversal of the initial downward trend produced by migration and racial discrimination in the early years of settlement in Britain" (Modood et al. 1997: 142).

Modood sees these findings as compatible with the suggestion that there is now more open and "meritocratic" competition for an increasing supply of the better non-manual jobs, but that even

the "over-achieving" ethnic minority groups are being "under-rewarded" – "that is to say, that typically, for the more competitive posts, ethnic minority individuals have to be not just as good but better than their white competitors in order to get the job" (Modood et al. 1997: 145). There is a kind of "ethnic penalty" to be paid (Heath and McMahon 1995), suffered by all the non-white groups, regardless of qualification and position in the jobs hierarchy – a penalty which refers to all the sources of disadvantage which might lead an ethnic group to fare less well in the labour market in comparison with similarly qualified whites (Modood et al. 1997: 145). One major component of this ethnic penalty is racial discrimination. The evidence for this is reviewed in Section 2 of this chapter.

A recent analysis of Labour Force Survey data (Berthoud 1999) looked particularly for evidence on the potential of education to overcome racial disadvantage, and this raised a number of interesting questions. Berthoud analysed Labour Force Survey data from 1985 to 1995, comprising a total data set of 90,000 individuals, including, as a primary focus of the study, 2,780 Caribbean men between the ages of 16 – 39. Although the survey was designed to focus mainly on the experiences of Caribbean men, it also provided data on other minority groups, and in doing so, confirmed the picture of complexity in minority ethnic employment experience set out in the fourth PSI survey.

For example, the study showed that young Indian men who had achieved, on average, qualifications that were higher than those of whites, reached within one per cent of the performance of whites in the labour market. Although, in theory, if earning power matched qualification level, they should be earning *more* than whites, this at least gives some grounds for optimism that education can overcome discrimination and disadvantage. However, the optimism of this conclusion contrasts with the pessimism regarding people of African origin in Britain. The African group's educational record was even better, on average, than the Indians', yet despite this they were performing very badly in employment terms. As Berthoud concludes, "if the Indians' history suggests that a drive for qualifications can be a successful counter to racial disadvantage in employment, the Africans' experience offers contrary evidence" (Berthoud 1999: 77).

For the Caribbean group there was both good and bad news. At school they were performing similar to whites, but the number going on to achieve a university degree was only half of what it should have been. This group still faced disadvantage in employment, independent of their educational position. The study raised some major questions for the future. What would happen, the author asks, if the Caribbean group as a whole was to increase its qualification level by a significant amount?

Would this extra education lead it along the Indian trajectory to counter disadvantage in the labour market and approach parity with whites? Or would it lead Caribbeans along the African trajectory, the additional education providing no net yield in terms of jobs and earnings? (Berthoud 1999: 78)

One surprising finding of Berthoud's study was that those in the Caribbean sample who had migrated to Britain as adults actually did better on a number of indicators than the longer-established group who had been born, or brought up, in Britain. For example, it was the latter who suffered higher levels of unemployment. For Berthoud, the relevance of this comparison is

that there is no hint that the employment disadvantage observed among young Caribbean men is a temporary phenomenon which will disappear with the passage of time. "This disadvantage is experienced by young men who were born and brought up in Britain, educated here, and unemployed here. It will not go away until something is done about it" (Berthoud 1999: 80).

2. THE QUESTION OF DISCRIMINATION

Two main international conventions addressing preventing racism and racial discrimination. The International Convention on the Elimination of All Forms of Racial Discrimination, (ICERD) was adopted by the UN Assembly on 19 December 1965, and has been ratified by the United Kingdom. The first part of it defines what is meant by racial discrimination:

The term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life (Banton 1994: 39).

The ILO Discrimination (Employment and Occupation) Convention, No. 111 of 1958, was adopted in 1967.

More narrowly, for the purposes of this chapter, racial discrimination in employment can be said to occur when ethnic minorities are accorded inferior treatment in the labour market or in the workplace relative to the white majority, even when comparably qualified in terms of education, experience or other relevant criteria. Its effect is to deprive people of the opportunities they deserve through the application of criteria which are irrelevant and morally indefensible.

It would not be correct to argue that the patterns of labour market and employment disadvantage and difference that we have observed are simply a result of racial discrimination. There is a whole range of forces which could conceivably lead to the perpetuation of inequality amongst originally migrant groups and their descendants long after the first generations have become settled and consolidated. Of course, educational attainment is significantly related to employment success, and if ethnic minority young people perform worse at school than their white peers this is likely to be reflected in their later labour market experiences. Many ethnic minority young people do indeed face particular problems during their school years. However, it is also the case that many ethnic minorities do rather well at school, and yet when surveys control for the variable of educational attainment, they are still found to suffer relative employment disadvantage.

There are other factors that could have an influence on the patterns observed in Section 1. Amongst the most significant are developments in the economy, the labour market and the organisation of work, and factors relating to the geographical location of ethnic minority communities. There has been a decline in manufacturing employment and the old industries which have traditionally employed immigrant workers, and an increasing need for fewer but higher-skilled employees. Cutbacks have been made in the public sector in areas such as health

and social services, which have traditionally been important sources of employment for migrant and ethnic minority women. There is also the increase in 'atypical' work, the trend towards casualisation of work, deregulation and 'flexibility', increasing part-time work, and sub-contracting, which have all had implications for the employment security of some ethnic minority groups. Cyclical patterns of unemployment have affected some social groups more than others. Particularly hard hit have been young people, especially school leavers, and migrants tend to be a 'young' population. Related to this is the relocation of employment away from the urban areas and old industrial conurbations where migrants settled, to new greenfield sites and areas where ethnic minorities are few. An example of the interaction of these two factors can be seen with the Pakistani population. Pakistanis have tended to be concentrated in major urban areas of the Midlands and northern England and to be employed in manufacturing industries and manual occupations. The severe employment contraction of these areas and sectors has led to particularly high unemployment amongst this ethnic group (Owen and Green 1992). These factors, which can be grouped as relating to 'economic restructuring', have been decisive in their influence, and must be seen as the context in which more specific factors, such as discrimination, are played out (Modood et al. 1997: 149).

2.1. The evidence for racial discrimination

Even when racism and discrimination are conscious and intentional, they are usually difficult to identify, often subtle and hidden. Some aspects are only discovered through specific investigations. Other types of discrimination are unintended, indirect, or institutional, and these often need relatively complex investigation and theorising in order to identify the processes that lead to exclusion or disadvantage for some groups.

There are different ways in which evidence comes to light which suggests the operation of discrimination against ethnic minorities in the UK labour market.

1. The first is at the level of statistical evidence, whether from Census data or other more focussed large scale surveys. This level can provide only *indirect* evidence of discrimination.
2. The second is by discrimination testing, a method which has a long history in the UK, whether carried out by academic researchers, journalists, or the Commission for Racial Equality itself
3. Thirdly is research, usually of a qualitative nature, into actions of gatekeepers to the labour market, such as employers or the staff of employment agencies.
4. Fourthly is research, again often qualitative, into the experiences of members of ethnic minority communities in the labour market or at the workplace
5. Fifthly is by the actions of aggrieved employees, whether collectively (through a trade union perhaps) or individually, in an act of "whistleblowing" to expose a particular incident at work.

6. Sixthly is by the operation of the CRE and the incidents which come to light at Employment Tribunals.

2.1.1. Evidence from the census, statistics and surveys

Labour Force surveys over the last twenty years show that the unemployment rate for most ethnic minority groups has been significantly and persistently higher than for the white majority population. Similar inequalities are shown in the 1991 Census, and the 1997 PSI study, as detailed in the previous section. More recent statistics show inequalities in the new employment initiatives – for example, the New Deal for 18 – 24 years olds started in 1998. Less than one year into it, ethnic inequalities were showing. For example, 39 per cent of ethnic minority participants who left the scheme went into jobs, compared with 52 per cent of white leavers. Similarly, the Modern Apprenticeships, which account for around 40 per cent of trainees on Government supported programmes for young people, recruited less than half the proportion of ethnic minorities than would have been expected had they matched the proportions in the national population (*Black Labour Market News* April 1999).

To what extent are we justified in seeing these differences as a reflection of discrimination? By themselves, not at all, because of the possible effect of other variables. But if we control for these other variables - for example, for age, educational attainment, region – and still find recalcitrant patterns of inequality which seem otherwise inexplicable, we can justifiably begin to consider whether discrimination is in operation. An example of survey which does this is the Youth Cohort Studies (Drew et al. 1992). A nationally-representative sample of 28,000 young people who were first eligible to leave school in 1985 and 1986 had their subsequent progress tracked. It was clear from this study that ethnic minority young people began from different starting points than their white peers. In general terms, ethnic minority young people were over-represented in the most disadvantaged social class (manual), their parents were up to three times more likely to be unemployed, and they were three times more likely to be living in the inner city, all factors which have been shown to have a major influence on subsequent labour market performance. Yet these factors were not enough to explain the patterns of inequality. If the gaining of employment is taken as the key measure of success in the labour market, then ethnic minorities were found to fare less well than the white population. Even after taking account of factors such as attainment and local labour market conditions, young people from ethnic minorities were found to be more likely to experience both higher rates and longer spells of unemployment. These findings strongly suggest, therefore, that racial discrimination is still a factor which operates in the labour market.

Nevertheless, statistics such as these are not proof that discrimination lies behind the observed inequality. The fact that other, assumed relevant, variables are controlled allows us to assume that the remaining differences are likely to be due to discrimination, but this evidence remains *indirect* only. We need to turn to other methods to complement these kinds of data with *direct* evidence of discrimination. This comes inevitably from research which covers smaller sample populations.

2.1.2. Discrimination testing

Discrimination testing has an established history in the UK, having been pioneered by the Policy Studies Institute and its predecessor organisation (Daniel 1968). The method utilises two or more testers, one belonging to a majority group and the others to minority ethnic groups, all of whom apply for the same jobs. The testers are matched for all the criteria which should be normally taken into account by an employer, such as age, qualifications, experience and schooling. If over a period of repeated testing the applicant from the majority background is systematically preferred to the others, then this points to the operation of discrimination according to ethnic background (Bovenkerk 1992: 6-7). Testing might be carried out in person, by correspondence, or by telephone.

One example of such testing was commissioned by the CRE to test labour market discrimination in those jobs for which for 'second generation' ethnic minority young people would be reasonably expected to apply. Researchers acting in the guise of young applicants from ethnic minority backgrounds 'applied' by letter to non-manual jobs advertised in the Nottingham local paper (Hubbuck and Carter 1980). To each vacancy was sent a letter of application from three test candidates, one native white, one Afro-Caribbean and one Asian. Each 'applicant' was matched in terms of qualifications, previous job experience, age and sex. Standard letters were used to control for content and handwriting, so that the only 'variable' was the ethnic origin of the applicant, which was made clear to the reader in different ways within the letters. This enabled the researchers to test whether there were ethnic differences in the success rates of being offered an interview. A total of 103 jobs were tested across all sectors of industry and commerce. Where all three candidates were called for an interview, this was seen by the researchers to be 'non-discrimination'. In fact in 48 per cent of the cases the Afro-Caribbean or Asian 'applicant' was refused interview whilst the white applicant was called for interview, whereas in only 6 per cent of the cases did the reverse happen. The researchers concluded that this represented clear evidence of systematic rejection on racial grounds. Fourteen years later the CRE commissioned a repeat of the study in the same town to see if things had changed (Simpson and Stevenson 1994). One difference from the previous study was that, after a decade of mass unemployment, job prospects were bleak for all the applicants, and in some of the job categories tested, the very low success rate for *any* candidate created methodological problems. Nevertheless, the test found that, as before, the white applicant's chances of getting an interview were twice as high as those of either the Asian or Afro-Caribbean applicant.

A more recent example focussed on occupations in the medical profession (Esmail and Everington 1993). In 1993 two doctors developed a curriculum vitae for each of six equivalent fictitious applicants, three with Asian names and three with English names. All the "applicants" were male, the same age, and educated and trained in Britain, with a similar length of experience of work in hospitals. The comparability of the CVs was confirmed by two consultants who were unaware of the purpose of the research and who were asked to rate the CVs after the names had been removed. Matched pairs of applications were sent for each post to see who would be called for interview, a total of 46 applications being sent to 23 advertised posts. The researchers found that National Health Service hospitals were twice as likely to shortlist candidates for medical jobs if they had Anglo-Saxon rather than Asian names. (The Asian candidate was never shortlisted unless the English-named candidate was also shortlisted.) Before carrying out the research, one of the researchers had asked a consultant how he normally shortlisted for posts. "He told me that he put all the CVs with English names into one pile, all those with non-English names into another pile, and looked at the English pile first." (*British Medical Journal* 1 March 1997: 2). In 1997 a similar exercise was carried out.

Pairs of fake CVs were sent to 50 hospital trusts in response to genuine advertisements for senior house officers. Again, one of each pair bore an English name and one an Asian name, and again, junior doctors with Asian surnames were much less likely to be shortlisted. Furthermore, only one in ten of the hospital trusts sent out ethnic monitoring questionnaires with the application forms, something which they were required to do. (*Daily Telegraph* 30 May 1999)

Another recent investigation which used the same principle was that carried out by Noon (1993). He explored recruitment practices among the top 100 UK firms when faced with speculative applications from fictitious MBA students from different ethnic groups. The companies were sent similar letters from two different MBA students, one white and one Asian, supposedly interested in eliciting information regarding job opportunities at managerial level. A list of one hundred top UK companies was generated using the Times 1000 index (1990). It was decided to target the largest UK companies because they were considered more likely to have the time and resources to spend on fair recruitment practices. The white student - John Evans - received 78 replies, the Asian student - Sanjay Patel - received 68. This difference was not statistically significant, and therefore suggests no discriminatory treatment. However, the researcher did find significant differences in the quality of the responses. By analysing the content of the letters the researcher found that the ethnic minority candidate was not encouraged as much as the white candidate. Noon concludes:

In an authentic situation, the Asian 'candidate' may therefore have been dissuaded from seeking possible employment opportunities with the company at a later date. If this were replicated, not only would it restrict the pool of potential recruits, but it would distort the ethnic profile of such a pool (Noon 1993: 41)

The final and latest example is the CRE exercise in the north of England and Scotland in 1996 (CRE 1996). Applications were made to 219 vacancies, mainly covering clerical, administrative or sales positions. The tests were carried out either by letter or in person, the latter method using white, Asian, black and Chinese actors. In 79 per cent of the cases none of the applicants were successful, showing how difficult it was for any applicant to find work. Of the remaining vacancies, the white applicants' chances of getting an interview were nearly three times greater than those of the Asian applicants, and almost five times more than the black applicants. An interesting feature of this test was the inclusion of an 'Irish' category of applicant. Overall, the Irish were found to fare less well than the white indigenous but better than the Chinese, Asian or black.

The method of discrimination testing¹⁰ is generally accepted in the UK and elsewhere to be a valuable means of bringing a concealed problem to public notice. According to Michael Banton, research carried out using this method constitutes a particularly striking example of how the findings of social research have exercised a decisive influence on social policy. Early British tests influenced the content of the Race Relations Acts (Daniel 1968), and similar tests

¹⁰ This method can also be referred to as 'practice tests', covering both situation tests and correspondence tests (Banton 1997), and the 'audit pair' method.

have subsequently been repeated in various forms and arenas up to the present day.¹¹ Following the British experience, in the early 1990s the ILO adopted the method for its international programme "Combating discrimination against (im)migrant workers and ethnic minorities in the world of work". Within the ILO programme, the Netherlands carried out the first national study (Bovenkerk et al. 1995), with others following in Germany, Spain, Denmark and Belgium¹² (see Goldberg et al. 1995; Colectivo Ioé 1996, Hjernø and Jensen 1997, Arriijn et al. 1998), and already these studies have been instrumental in getting the problem of discrimination onto the respective national agendas.¹³

The testing method has its critics, some of it from American economists who argue that its validity in demonstrating real-life discrimination is overstated (e.g. Heckman 1998) and others who argue that, regardless of its validity, as a method it is unethical and should not be conducted. The research ethics committee of the Swedish Council for Social Research was instrumental in preventing similar testing being carried out in Sweden, on the grounds that it was ethically unacceptable (Banton 1997). In the UK, the doctors who carried out the 1993 tests for hospital jobs were warned by the General Medical Council that they could be held to have acted in a manner not consistent with acceptable professional conduct, even though the use of deception has a long tradition in medical research and is not usually challenged on ethical grounds. (*Equal Opportunities Review* May/June 1993). Drugs are routinely tested in experiments where control groups of ill people are given placebos, and control specimens are frequently included in batches of samples sent for laboratory analysis to detect sloppy work or dishonesty (*British Medical Journal* 306, 1993: 853).¹⁴ A significant part of the science of psychology has been founded on experiments involving 'naïve subjects'. Rarely is the ethical argument used to question the continuation of such practices, yet in many of these medical and psychological spheres the deception involved has a far greater potential for undermining the well-being of subjects than the use of covert testing in employment recruitment. The criticism of the method which has stemmed from the United States must be understood in the context of the attack on affirmative action which began with the Reagan presidency in the 1980s. Conservatives argued that affirmative action was no longer necessary because discrimination had largely been eliminated. Therefore studies which continued to demonstrate the operation of discrimination took on a heightened significance, and the testing method became the target of attacks on methodological grounds. Despite these various criticisms, in the opinion of Professor Michael Banton (Chair of the UN Committee on the Elimination of Racial Discrimination) there are no valid ethical arguments which prevent the method being carried out (Banton 1997), and the technique stands as a solid contribution to the debate on the existence and forms of discrimination.

¹¹ As well as those already mentioned above, see McIntosh and Smith 1974, Smith 1977, Brown and Gay 1985.

¹² An overview of the US evidence from discrimination testing was also produced for the ILO project – Bendick 1996.

¹³ The UK was not included in this exercise because evidence for discrimination had already been established there using this method.

¹⁴ Discrimination testing itself has been used in spheres related to medicine, such as in highlighting the different treatment of people who are HIV positive (Gros and De Puy 1993).

2.1.3. Research into the activities of ‘gatekeepers’

Although discrimination testing is effective in demonstrating discrimination at the first stages of the recruitment process, it offers few clues as to the specific motives and processes behind this rejection, and experiences at later stages of the recruitment process. Qualitative research has provided further insights into processes of labour market exclusion.

Towards the end of the 1970s, in the years immediately following the 1976 Race Relations Act, the Commission for Racial Equality commissioned a study of access to apprenticeships. This was at a time when equal opportunities policies among private sector employers were relatively rare. The researchers interviewed employers who were connected with the apprenticeship recruitment of over 300 West Midlands firms, and monitored the 16 year-old school leavers of four Birmingham schools (Lee and Wrench 1983). Ethnic minority young people who applied for apprenticeships were found to be just as well qualified as their white peers. However, there were significant differences in success rates in gaining a craft apprenticeship: whites had a success rate of 44 per cent compared to only 15 per cent for Afro-Caribbeans and 13 per cent for Asians. Most employers offered the usual denial of racial discrimination, arguing 'we don't care what colour they are' and explaining the absence of ethnic minority apprentices by saying 'they don't apply' or 'they don't get the qualifications'. In fact, well-qualified black young people were applying, and the interviews with employers revealed a number of factors which helped to explain the lower success rate:

- Some employers expressed stereotyped perceptions of ethnic minority young people: for example, they labelled West Indians as 'lethargic', or thought Asians were 'weak in mechanical design'.
- Some employers described 'no go areas' in their firms, where white workers refused to work with a black or Asian person: these tended to be the old skilled craft areas of work, such as toolroom, sheet metal working, and maintenance, as well as in supervision.
- Many firms relied for recruitment in significant part on the family members of existing employees, and trade unions would often support this policy. Thus, in a largely white workforce, this excluded ethnic minorities.
- Many firms didn't advertise their vacancies for apprenticeships. They relied on word-of-mouth recruitment, with the result that ethnic minorities would be less likely to hear of vacancies than white school leavers who had contacts within a firm.
- Many employers restricted their recruitment to a local catchment area when faced with a large number of applicants. As the largest employers were located in white outer suburbs of cities this excluded black applicants from the beginning.

These factors together constitute both direct and indirect discrimination. Over the next decade a number of Tribunal cases picked up on one or more of these practices, and with the encouragement of the CRE, more employers adopted equal opportunities policies designed to eradicate them. For example, since this study was carried out, the Rover car company, one of the major employers in the area, adopted an equal opportunities policy and completely revised its recruitment practices. (This was following the rather embarrassing publicity from a Tribunal case on discrimination.) During the 1980s the company began forging links with local schools

in areas of ethnic minority population, and by 1988 took 22 per cent of its trainees from ethnic minorities (*Financial Times*, 8 November 1989).

The sorts of practices identified in the CRE apprenticeship study were recommended to be avoided in the CRE's "Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equal Opportunity in Employment", drawn up in 1984. The Code of Practice recommends that employers should not use recruitment methods that can give rise to indirect discrimination; for example, such as word-of-mouth recruitment through the recommendations of existing employees where the workforce concerned is predominantly white or black or where only members of a particular racial group would come forward. However, a 1989 CRE survey found that while substantial proportions of employers used formal methods such as press advertising, job centres and careers offices in recruiting for all types of workers, nearly a fifth of employers (19%) reported using personal recommendations from existing staff to fill unskilled and semi-skilled manual job vacancies, and nearly a third (31%) used unsolicited applications (CRE 1989: 9).

Employment agencies

More and more companies in Britain have been adopting equal opportunities policies, trying to stamp out direct and indirect discrimination and to increase the recruitment of ethnic minority staff (see later). However, in the 1980s it also became increasingly common for employers to sub-contract parts of their recruitment to external agencies. When external agencies are used as a filter between people seeking work and employers looking for staff, then it becomes equally important to consider the potential for discrimination here. Examples of such bodies are private employment agencies, government funded job centres, and local authority careers services¹⁵.

Evidence of routine discrimination was demonstrated in a Thames Television documentary (*Colour Bar* 19.11.90) which revealed how some private employment agencies were uncritically cooperating with instructions from employers not to send them black staff. In the same year research commissioned by the Department of Employment gave further insight into the experiences of agency staff. Qualitative interviews with the staff of local authority careers services revealed what employers were doing and saying when the officers were trying to place ethnic minority young people in local jobs or training schemes (Cross et al. 1990). These staff told of employers providing work experience for training schemes who refused to interview Asian youngsters on hearing their name, of supervisors on schemes collaborating with employers who specified 'We want a white youngster', of employers who told them "I know I shouldn't say this, but don't send me a black", and of entrepreneurs who refused to consider an Asian applicant because "They would go off and start their own business".

Although according to the 1976 Race Relations Act such instructions amount to unlawful pressure to discriminate, the interviews revealed that careers staff were often unwilling to challenge them when jobs were scarce and 'proof' of discrimination was difficult. Careers office staff argued that they had very little power - that if they refuse to action a vacancy the employer can simply fill it elsewhere. Therefore, instead of confronting racist employers, many careers officers would opt for a less stressful life by 'protective channelling' - directing ethnic

¹⁵ The Careers Service is a national agency with local offices where school leavers and other young people are given careers advice and helped to find employment or training places.

minority young people away from firms and schemes where they suspect they will be rejected. For example, it would become apparent which training schemes were willing to take on ethnic minorities, and the young people would be sent to these in the knowledge that they would be accepted. Their stated aim was to protect the young person from negative and disappointing experiences, but the consequence was that when this practice became routinised, racial exclusion and inequality were perpetuated without the occurrence of a specific racist act of rejection by an employer.

Furthermore, it was clear that these processes were encouraged by the developments in the economic and political environment in which careers officers worked. New political pressures on the Careers Service in the 1980s directed the emphasis of the Service away from counselling and guidance work with young people towards servicing the needs of employers (Wrench 1990: 430). Subsequent developments in the direction of the privatisation of the Service put it in competition with other agencies for clients, and in this climate there were pressures to avoid the potential loss of time and customers which could result from the confrontation of racist practices in the labour market.

The earlier mentioned CRE testing in the north of England and Scotland (CRE 1996) included applications via job centres. It was found that the differences in success rates of white and ethnic minority job seekers here was very small and not statistically significant, and this led the researchers to conclude that in this arena discrimination had been largely eliminated. Nevertheless, there were occasional incidents – for example, a Manchester job centre told an Asian applicant he was unsuitable for a vacancy in a ladies fashion store, but a few minutes later took the details of a white actor and said they would send him an application form. In Glasgow, job centre staff told a young Chinese actress that her details could not be keyed into the computer because she did not have her national insurance number, and yet a few minutes later entered the details of a white actress who had ‘forgotten’ hers.

2.1.4. Research into the experiences of ethnic minorities

Interviews on a respondent's subjective experiences of racism and discrimination in recruitment are likely to be a somewhat unreliable source of information. A victim may perceive discrimination where it does not exist; conversely, research has demonstrated that ethnic minorities can underestimate the discrimination they are in reality exposed to (Smith 1977). As we have seen earlier in this chapter, processes of discrimination can operate quite invisibly.

Some indirect evidence of minority ethnic young peoples' perceptions of racism came from the above-mentioned research into the Careers Service. Careers office staff reported how ethnic minority young people would sometimes shy away from some quite ‘desirable’ schemes and jobs through a fear of racist treatment, and some prestigious employers were avoided because of their unsympathetic reputation. Some ethnic minority young people were unwilling to travel to schemes in the parts of the city where there was known to be overt racism, and this in itself could severely limit the opportunities of the young people. These observations about ‘racism avoiding behaviour’ were confirmed in interviews with ethnic minority young people themselves – a survey in the Liverpool area found that a majority of the sample of black young people felt unsafe during the day outside their own area of Liverpool 8, due to racial tension or fear of racial harassment or attack (Roberts et al. 1992). Some felt unwilling to travel alone

elsewhere in Liverpool. The result of this was that 'their training, education and employment opportunities were severely restricted' (p.226).

This point was picked up in studies commissioned in the mid 1990s by the Department for Education and Employment. A programme of tape recorded interviews was carried out with 50 Afro-Caribbean and 50 Bangladeshi young men, aged between 16-24, and selected from the least qualified end of the attainment spectrum (Wrench and Hassan 1996; Wrench and Qureshi 1996). Amongst the aims of the exercise was a desire to see if a group of (often unemployed) young people were aware of the operation of racism and discrimination in their lives, and whether their own labour market behaviour reflects or compounds the discrimination.

The Afro-Caribbean respondents did talk about their suspicions of racism and how it made their life harder. When asked what they felt hindered them in finding work, several replied simply 'racism' or 'my skin colour'. As one put it, "How do I see it? ... I see that a black guy gotta basically be twice as good as like a white compatriot - for like certain, like what virtually everything thing that he does." Respondents told of their impressions at the interview stage that things were unfair - for example, when someone was wanted 'urgently', and yet after the interview they still weren't offered the job. A Birmingham respondent felt that the interviewer had made his mind up already to reject him - "you know, if you are going to interview someone, you don't make them stand up in a middle of a shop and you serve customers at the same time. You tend to give them all your attention."

Another Birmingham man, unemployed for three years, described an interview for work at a timber yard: "The man's asking me 'do I have qualifications?' and that madness, but on the card it said 'qualifications are not needed'. A Coventry respondent, unemployed for two years after losing his job, recounted:

The last thing - I tell you - the last interview I had, it was for a maintenance trainee and I went and sat down, and a lady goes to me 'He will personally interview you in a minute' ... and he looked at me and, like a look of shock on his face like 'Oh my god he's black' ... and for the whole interview he was just talking to me like 'Yeah, I don't really want you, but I am just going through the process'.

A Coventry young man related similarly bad experiences when going for a job in person; "Its like you go for a job, and you know that they're not interested, its like body language". The young black men in this particular sample included some who fitted into what project Fullemplay called "a new category of unemployed" - "young aspiring black men who are not prepared to tolerate racist practices at work and choose to be unemployed rather than being subject to discrimination" (Fullemplay 1990: 28).

Of the Bangladeshi sample, one third were in work, and roughly half of these worked in the restaurant trade. Like the Afro-Caribbean young men, the Bangladeshi respondents saw racism as one of the factors which constrain their employment options. Indeed, one stated reason for getting employment in restaurants is that they felt that they would not experience racism there. The research sample remained disproportionately employed within the geographical locality of the Bangladeshi community itself, and respondents were well aware that some local 'white' areas are closed to them because of the likelihood of racist attack. For example, the sample

interviewed in London saw the adjoining Isle of Dogs and Docklands area to be a highly racialised place. Despite developments and the inward investment that has been made into the Docklands area in recent years, and the employment opportunities that have arisen, Bangladeshis were on the whole not willing to take jobs in this area, even if offered.

I would work anywhere in London except of the Isle of Dogs, simply because I wouldn't feel safe travelling in that part of East London. It is a racist area, you only have to go there and the white people give you funny looks. One of my cousins got attacked there, he was walking down the road when he got jumped by these whites. They beat him up badly, he was in hospital for a month. (London respondent, aged 21)

I don't mind getting a job locally (East London) as long as it isn't too far the Isle of Dogs is definitely a no-go area for Bangladeshis. The place is full of racist whites, no way would I go there if for a job. The developments with Docklands isn't really for us, it's for people from the City. (London respondent, aged 18)

Similar views were expressed by the Bangladeshi sample in Birmingham about the white-dominated suburbs of the city. A sixteen year old stated "If somebody was to give me a job in one of these white areas I would have to think very hard whether or not to take it. ... Asians that live in those areas get a hard time." Another reported "Certain places are out of bounds, I mean you can go there but you wouldn't feel safe. I feel safe amongst my own people."

The racialisation of areas into black/Asian spaces and white spaces undeniably affects the employment patterns of different communities. The fear of racial attack has led to the indirect segregation of different communities in terms of residence and employment opportunities. However, the over-representation of Bangladeshi employment within their own community does not mean that they are an immobile workforce. The young men were highly motivated to find work, and many of those in the London sample were travelling to take jobs in Kent, Birmingham and Swansea. Significantly, however, in these far-away places they were still working within the Bangladeshi communities. (The significance of the racialisation of geographical space is discussed further at the end of this section.)

In 1994 the CRE commissioned a report on the Irish community in Britain (Hickman and Walter 1997). The statistical part, referred to in Section 1 of this chapter, showed the disadvantaged position of a large section of the Irish in the UK labour market. Recognising that a disadvantageous position is not clear evidence of discrimination, the researchers carried out in depth interviews with 88 Irish respondents in Birmingham and London. Eighty two per cent of respondents stated that they had experienced no difficulties in finding employment in Britain (although the employment they found was more likely to be low paid work). Amongst those who did experience difficulties, only four felt that their Irish origins had been a factor. One said "People have a fixed response to an Irish background and to a West Indian background (...) People make you feel a certain way because of being Irish" (Hickman and Walter 1997: 169). The relatively low subjective awareness of discrimination in recruitment amongst the Irish population contrasts with the more heightened awareness of the phenomenon in the Afro-Caribbean and Bangladeshi samples, and is consistent with the earlier mentioned CRE tests (CRE 1996) which showed less discrimination in applications by Irish applicants than for those by Chinese, Asian or black applicants.

Although only a small minority believed that they had been discriminated against when applying for jobs, there did remain some suspicion that being Irish could constitute a block for promotion. Four respondents voiced suspicions on this – for example “I think that it was being Irish that stopped me. Being Irish, I didn’t get promotion in the library when I think I should have” (Hickman and Walter 1997: 170). The authors of the report speculate that discrimination against Irish people might be more likely within the occupational hierarchy rather than at the point of entry.

The latest PSI study (Modood et al. 1997) sought the views of both ethnic minority and white people on discrimination. Ninety per cent of all economically active white people thought that employers did refuse people jobs for racial or religious reasons. This was a greater percentage than for most ethnic minority groups. However, ethnic minorities were more likely to believe that discrimination was widespread – one in five believed that most employers discriminate, compared with only one in 20 whites (Modood et al. 1997: 130). When the minority respondents were asked if they had ever been refused a job for a reason to do with their race or religion, one fifth of those who had ever been economically active thought that this was so. The PSI researchers argue that it is not surprising that the belief in discrimination is more widespread than the experience of it, as most discrimination occurs without the victim being aware of it.

An interesting aspect of the PSI survey was the eliciting of perceptions of religious discrimination. A quarter of all the ethnic minority persons who believed that they had been discriminated against in a job application believed that it was for a mixture of reasons to do with their race and religion (Modood et al. 1997: 132-133). In fact over 40 per cent of South Asians, evenly spread across ethnic and religious groups, believed that this combination of reasons to be operative. This suggests that, for South Asians, the idea of racial discrimination is of a more complex character than it is in many equal opportunities policies, in which it is assumed that racial discrimination is unfair treatment simply of ‘people of colour’. It has therefore been argued that racism against South Asians in Britain has to be understood not just in terms of ‘colour-racism’ but also ‘cultural-racism’, with the latter being targeted against a ‘visible’ group’s cultural characteristics (Modood 1997).

2.1.5. The actions of aggrieved employees

One positive consequence of the long-established existence of the Race Relations Acts (see Section III) is that they have helped to foster a public climate which denies the legitimacy of acts of racial discrimination. Similarly the media attention paid to industrial tribunal discrimination cases and the formal investigations of the CRE over nearly 20 years have presented to aggrieved employees models and precedents for action. Many examples of the exposure of racism and discrimination in employment by ‘whistleblowers’ and others could therefore be quoted here from the British press. Just a few will be mentioned:

- A supervisor at a Birmingham firm instructed staff to "ignore job applications from Pakistanis". The supervisor told clerical workers who were taking phone enquiries about vacancies to take callers' names and addresses but to tell any Pakistanis who rang that the job had gone. An angry employee reported the order to the CRE who brought it

to the attention of the company directors, resulting in a disciplinary meeting and a final written warning for gross misconduct (*Sandwell Mail* 3 May 1991).

- A major employment agency was reported to have unlawfully discriminated against ethnic minority job seekers by acting on subtle discriminatory instructions received from its clients. The CRE received a letter from a trainee consultant with the company alleging that a manageress had prevented her from referring well-qualified ethnic minority candidates to two Japanese-owned banks (CRE 1991).

Another case was brought to light by the action of job centre staff in July 1991: a manufacturing employer in Rotherham asked a local job centre to help him recruit staff, but stipulated that they should not send him Muslims. An industrial tribunal in Sheffield ruled that this constituted indirect discrimination (It was not considered to be *direct* discrimination because discrimination against 'Muslims' was not covered by the Race Relations Act).

It is noticeable that two of the examples of discrimination described above came to public notice because of the 'whistleblowing' action of concerned individuals. If we assume that in a great number of cases nobody decides to 'blow the whistle', then many cases must routinely go unnoticed.

2.1.6. Employment tribunal cases and CRE formal investigations

Confirmation of processes of racism and discrimination in the labour market and employment comes from regular formal investigation reports by the CRE. These investigations are usually triggered by information stemming from one of the various sources described above, and then provide more systematic detail of the problems. Among the formal investigations carried out over the last ten years or so are those into lecturer appointments at colleges of further education, the operations of employment agencies, the promotions practices of London Underground Ltd, and recruitment and selection in the hotel sector.

Sometimes an organisation can be *threatened* with a formal investigation as an inducement to improve its practices. For example, in 1992 the Construction Industry Training Board was warned by the CRE that it faced a formal investigation over claims that white applicants were twice as likely to gain training places as black applicants. The Commission, supported in its action by the building trade unions, was seeking a specific commitment to equal opportunities, positive action where necessary, and disciplinary procedures for dealing with racial abuse, as part of a general assault on discriminatory employment practices and racial abuse in the building industry (*Independent* 26 March 1992). Similarly, after it had come to notice that the RMT union had failed to protect Asian members from racial discrimination by British Rail, the CRE suspended its formal investigation into the union after the union made clear that it was willing to work with the CRE to develop and implement a package of race equality measures.

Other examples of cases that have come to public notice through legal proceedings are:

- In 1993 an industrial tribunal in Leeds ordered a Yorkshire textile firm to pay £250,000 compensation to 49 Asian workers after having been found guilty of racial discrimination. The company had maintained a black-white split in its workforce with

regard to departmental divisions and shifts, and in contrast to the white workers, Asian workers had not been paid overtime, received four days less holidays a year, and had no chance of promotion (*Guardian* 29 May 1993).

- In 1997 a bakery worker who suffered years of racial harassment from colleagues and bosses was awarded £15,000 damages by a Birmingham industrial tribunal. The tribunal concluded that his employers, West Bromwich-based bakers, did nothing to stop the abuse and failed to take his complaints seriously.

The Race Relations Act also protects white workers. In 1997 a German worker took his Coventry-based employer to an industrial tribunal claiming racial discrimination after other workers persistently harassed him with Nazi salutes, goose-steps and racist abuse (*Coventry Evening Telegraph* 8 May 1997). In 1998 a Danish man living and working in Sheffield was awarded compensation from an employment tribunal after receiving daily racist abuse from a supervisor at the newspaper delivery firm where he worked as a van driver (*Connections* Winter 1998/99: 13). In 1997 a Japanese firm based in London was found guilty of racial discrimination when it selected only British staff for dismissal. The company was also accused of paying UK staff half the salary of Japanese nationals, and refusing to promote non-Japanese staff above a certain level (*Observer* 2 February 1997).

Examples of employment discrimination have been given from the six main categories of evidence. The important question to ask is the extent to which the patterns of employment inequality by ethnic group, as set out at the beginning of this chapter, are attributable to this discrimination. It is clearly not only discrimination which leads to these patterns of inequality. Nor are we in a position to argue that discrimination is the *main* factor. However, it clearly is a major and continuing factor, the extent of which is still denied by major players in the operation of the labour market. The practices of discrimination are demonstrated by specific pieces of investigation such as discrimination testing or more qualitative research, which reveal practices which would otherwise not come to notice. Some of the research evidence shows that we should not only be concerned with *acts* of discrimination but with *processes* of discrimination. Processes are established, routine and subtle; only occasionally will an individual 'act' of racial discrimination become visible within these processes, and only intermittently can one individual actor be identified as responsible for the exclusion of another from specific opportunities. Many other cases of racism and discrimination which would otherwise remain hidden come to the surface through the actions of concerned individuals or the anger of aggrieved parties, and it is likely that many of these would not have been exposed but for the existence of the Race Relations legislation and the availability of legal measures of redress for victims of discrimination.

In the six categories of evidence described above, most of the direct evidence of discrimination relates to identifiable individual acts of persons who were either personally prejudiced, were operating to group stereotypes, or were taking account in their actions of the prejudices and stereotypes of others. However, a minority of these examples are qualitatively different. These are the examples of *indirect* discrimination – where minorities may be excluded by organisational priorities regardless of racist intent – and the *racialisation of space* – where minorities face pressures to avoid certain geographical areas and the opportunities that exist within them. These examples lead us to consider the phenomena of institutional racism and

structural discrimination – i.e. forces of racism and discrimination that are more than simply individual cases of people acting in a direct way to deny opportunities to others.

2.2. Institutional racism

Institutional racism is relevant to the organisational rather the individual level. In the UK, the term became propelled into public consciousness in 1999 after the inquiry by Sir William Macpherson¹⁶ into the actions of the police following the murder of the black teenager Stephen Lawrence, and the subsequent mishandling of the case by the public authorities, which meant that his murderers were never convicted. The Stephen Lawrence Inquiry report raised questions about racism in public organisations. It defined institutional racism as:

“the collective failure of an organisation to provide an appropriate professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.”

Institutional racism is therefore something that does not necessarily require the presence of overtly racist individuals. Racism arises through social processes, and is carried on within the organisational or occupational culture, transmitted informally through everyday practices. “Racism of this kind becomes routine, naturalised, habitual, taken for granted. It is far more effective in socialising the practices of its members than formal training or regulations “(Hall 2000: 6).

2.3. Structural discrimination

Similarly, structural discrimination covers sources of group-patterned disadvantage and inequality that are not simply reducible to the conscious prejudices of individuals, or to the exclusionary actions of an individual who is taking account of the prejudices or racist preferences of others. For example, where educational achievement is strongly associated with family income, and future employment opportunities are determined by educational achievement, then inter-generational patterns of group-structured economic inequality are likely to persist long after a group was intentionally confined to low-paying jobs (Williams 2000: 65). The processes of structural inequality include ‘side-effect’ discrimination, where discrimination in one social sphere generates inequality in another. For example, housing discrimination can lead to residential segregation, which then directly constrains access to better welfare, housing and employment opportunities (Smith 1989).

Whilst residential segregation can be a major component of structural discrimination, it would be wrong to see such segregation as an entirely negative phenomenon. The positive side is that residential concentration allows the group to maintain its social cohesion, strengthens social networks and allows the passing of the threshold for the support of institutions and shops.

¹⁶ *The Stephen Lawrence Inquiry: Report of an Inquiry by Sir William Macpherson of Cluny* The Home Office Cm 4262-1 February 1999

(Peach 2000: 18). Furthermore, ethnic concentration in the UK is no longer synonymous with deprivation. A recent study shows that some South Asian enclaves enjoy relative affluence (Dorsett 1998). However, the negative side of residential segregation is when it represents an attempt to keep underprivileged ethnic groups away from the residential areas of the dominant group, and all the advantages and opportunities associated with these areas. Historically in South Africa and the USA such segregation was applied formally, through legislation and restrictive property covenants respectively (Peach 2000). In the UK a less dramatic segregation occurs through informal processes. For example, in the 1990s, Britons in general were increasingly leaving the larger urban areas and moving to small towns and rural areas (*The Times* 30.1.97). Several studies in the 1990s asked the question as to whether the immigrant-descended British population were also following these trends of geographical mobility in search of a better quality of life, or were they remaining in the same levels of over-representation in the less affluent urban neighbourhoods. These studies discovered that pressures exist in these 'new' areas that make this mobility less likely and discouraged ethnic minorities from leaving their areas of original settlement. Small country towns and rural areas were shown to be in many ways less sympathetic environments for ethnic minorities. Local authority, educational and welfare services are less well attuned to the needs of cultural minorities than in the larger urban conurbations, and isolated ethnic minorities are made to feel 'alien'. More specifically, there is evidence that racial harassment and violence can be experienced more intensely in such areas. Seagrove (1989) found that the greatest increases in reports of racial harassment were found in non-metropolitan areas such as Kent, whereas some of the major conurbations exhibited decreases. Jay (1992) studied racism in the rural South West of Britain, and discovered a disturbing environment of extreme prejudice and discrimination directed against the few non-white people who lived there. Ethnic minorities felt isolated, uncomfortable and vulnerable. As one black woman put it "If I had the choice I would up and go to Brixton or St. Pauls,¹⁷ and not be looked at like I'm something from another planet every time I go out" (Jay 1992: 23). A later study of ethnic minorities who had moved to Harlow - a 'new town' outside London characterised by greater affluence and lower than average unemployment - discovered the environment to be so unsympathetic for ethnic minorities, and the fear of harassment so great, that it could be seen to constitute a barrier to the future migration of ethnic minorities to such areas (Wrench et al. 1993; Wrench 1997b). Families were found for whom the ordinary aspects of life were so oppressive in Harlow that they would travel for two hours to Leicester, a city with a substantial Asian population of long standing, for their social activities and weekly shopping. As one black student nurse told the researchers, "I have been to so many places - so many states in America, Jamaica, Scotland, Ireland, France, Germany. This is the worst place I've come across. It's so sad. I'm counting the days ..." (Wrench 1997b: 62-63). In this sense, the racialisation of areas can operate as a form of structural discrimination that perpetuates exclusion and disadvantage for ethnic minority groups.

2.4. Anti-discrimination and equal opportunity interventions

Both institutional racism and structural discrimination constitute part of the vicious circle of poverty, poor educational achievement, low job skills and social exclusion that continues to affect some ethnic minority communities in the UK. Along with direct discrimination, they

¹⁷ Urban areas of large black populations in London and Bristol respectively.

constitute factors which contribute to the ‘ethnic penalty’ paid by members of ethnic minority communities at all levels of employment. However, discrimination is a factor that is amenable to some control. Laws against discrimination, and policies of non-discrimination, can be effective tools for combating the direct discrimination identifiable by the six categories of evidence above. At an organisational level, equal opportunity policies can be used to tackle indirect and institutional discrimination. However, most forms of structural discrimination are not amenable to change through anti-discrimination principles alone.

Where there are close relationships between minority status, low educational attainment, low-income and low-skilled occupations, and poor housing and health, group-structured inequality may respond only to group-focussed policies that take positive action to overcome barriers to full participation (Williams 2000: 66)

In the US, such group-focussed policies are called affirmative action. Affirmative action is defined as “any measure, beyond simple termination of a discriminatory practice, adopted to correct or compensate for past discrimination or prevent discrimination from recurring in the future”¹⁸. In the UK the equivalent practice is called ‘positive action’, defined as measures designed to overcome disadvantage over and above what is required to prevent actual discrimination against ethnic minorities. Equal opportunity policies in the UK often contain elements of positive action. These will be discussed in the next section of this report.

Interventions to promote equal opportunities and reduce discrimination in the labour market can be categorised into four distinct types (Jenkins 1986: 110-11). These are legal, administrative, voluntarist and those based on collective action. The four types can be explained as follows:

The legal approach. Individual victims have the right of access to civil courts and industrial tribunals for legal remedies against unlawful discrimination by employing organisations. Legislation provides that, where an industrial tribunal or court finds in favour of a complainant, they may award remedies. In the UK context the Race Relations Act 1976 outlaws discriminatory acts in the sphere of employment based on ‘race’, colour, nationality, national and ethnic origins, and provides remedies where the finding is in favour of the complainant.

The administrative approach. This is where organisations such as local authorities use their influence both as employers and as customers of goods and services to intervene in the pursuit of equal opportunities, using strategies such as contract compliance to influence the employment policies of other employing organisations.

The voluntarist approach. This is where employing organisations themselves take steps to reform their own institutional procedures and policies. The usual model is the adoption of an equal opportunity policy tailored to fit the specific organisation. It might include positive action measures by employers, such as encouraging ethnic minority employees to develop their potential through extra training.

¹⁸ US Commission on Civil Rights *Statement on affirmative action* Washington 1977

Collective action. This is where equal opportunity or anti-racism aims are pursued through political action by groups of workers or ethnic minority organisations. Through collective action, pressure is put on organisations to adopt equal opportunity initiatives, whether from inside the organisation or outside.

Although these four approaches to anti-discrimination and the pursuit of equal opportunity are conceptually distinct, they are not to be regarded as mutually exclusive (Jenkins 1986: 112). Indeed, all four approaches are necessary, complement each other, and should be mutually reinforcing. Action at one level can stimulate action at another. For example, measures enacted as part of the legal approach can facilitate action at the administrative level; a voluntary approach by an employer or trade union might be stimulated by the anticipation of legal or administrative interventions or collective action by a group of workers. Organisations such as the Commission for Racial Equality believe that it is necessary for a national strategy to operate with all of these approaches in any programme to combat discrimination.

In this chapter we will consider first legal and administrative approaches together, then voluntary measures and then collective action. This threefold division reflects the fact that each category corresponds mainly, though not entirely, to each of the main parties in the labour market - government (whether national or local), employers, and trade unions. However, this is only a convenient division of emphasis and is clearly not a watertight division. For example, a private sector employer can also adopt administrative measures such as contract compliance. Furthermore, trade unions do not represent solely the dimension of "collective action", as trade unions are also organisations subject to the legal constraints of the Race Relations Act, and are also able to adopt voluntary equal opportunity measures themselves.

3. LEGAL AND ADMINISTRATIVE MEASURES ADDRESSING DISCRIMINATION

This section considers the possibilities, and, in some cases, the limitations, of legal and administrative devices for promoting equal opportunity and fighting racism and discrimination

in employment. It is therefore primarily concerned with actions at a national and local government level.¹⁹

3.1. The Race Relations Acts

The first Race Relations Act of 1965 created a single criminal offence, "incitement to racial hatred". It also prohibited discrimination in places of public resort, such as hotels, restaurants and public transport. The Race Relations Board was created to investigate and conciliate complaints of discrimination. Subsequent Acts progressively broadened the scope of law in this area. The Race Relations Act of 1968 covered discrimination in employment, housing and the provision of goods, facilities and services; the Race Relations Board was given increased enforcement powers, and a new body, the Community Relations Commission, was created to promote 'harmonious community relations'. Individual complainants, however only had access to legal remedies through the Race Relations Board. Subsequent research demonstrated that racial discrimination was still widespread, and, following the Sex Discrimination Act of 1975, the Government introduced the Race Relations Act of 1976 (Zegers de Beijl 1991: 4).

The Race Relations Act 1976 (RRA) came into force in June 1977 and applies to the whole of Great Britain. The Act replaces the two previous Race Relations Acts and extends the scope of the law against discrimination to employment, training and education, housing and the provision of goods, facilities, services and planning. The Act further renders unlawful "pressure to discriminate", i.e. inducing another person to perform an act of unlawful discrimination, and forbids any advertisement which indicates that an employer is intending to discriminate on the grounds of 'race'. It gives individual victims a right of direct access to the civil courts and industrial tribunals for legal remedies against unlawful discrimination. It amended the Public Order Act 1936 to make incitement to racial hatred a criminal offence, although prosecution before criminal courts may be instituted only with the consent of the Attorney General.

The Race Relations Act emphasises the prevention of racist behaviour rather than changing racist attitudes. The provisions of the Act spell out precisely how it is unlawful to discriminate at any stages of recruitment, and how employees, once recruited, cannot be discriminated against in regard to their terms of employment or opportunities for development. Similarly, racist insults, harassing, threatening and bullying by other employees are also covered by the Act (Gribbin 1994).

There are a number of exceptions to the Race Relations Act. These include work in a private household, seafarers recruited from outside Great Britain, and jobs which entail working all or most of the time outside Great Britain. For some jobs, 'race' is allowed to be a 'genuine occupational qualification', namely for dramatic performances, films, or artistic or photographic models, in places where food or drink is provided, such as Chinese or Indian restaurants for reasons of authenticity, or in certain circumstances for jobs which entail providing people of a particular racial or ethnic group with 'personal services promoting their welfare'. These provisions apply regardless of the racial group required, and thus could equally allow the recruitment of black or white applicants. There are also exceptions in the Act to meet the

¹⁹ This section draws heavily on three overviews of UK measures: Zegers de Beijl 1991, Forbes and Mead 1992 and MacEwen 1994.

special needs of particular racial groups in education, training and welfare; and to permit education or training to be provided to people coming from abroad on a temporary basis. (For further information on the positive action exemptions provided by s.37 and s.38 of the 1976 Act see later in this chapter.)

When the Act refers to discrimination on 'racial grounds' it means grounds of colour, race, nationality, or ethnic or national origins, and a 'racial group' similarly means a group of persons defined by colour, race, nationality, or ethnic or national origins. The Act does not permit 'reverse discrimination' or 'positive discrimination', and therefore it is unlawful to discriminate in favour of a person of a minority racial or ethnic group in recruitment or promotion.

An important feature of the Race Relations Act of 1976 is that it outlaws both *direct* and *indirect* discrimination on racial grounds.²⁰ Although the Act does not use the words 'direct discrimination', this is now common shorthand for the type of discrimination covered by section 1(1)(a). A person carries out this type of discrimination if on racial grounds he treats that person less favourably than he treats or would treat other persons. Similarly, the words "indirect discrimination" are not used in the legislation but have become the standard way of defining this type. It occurs in employment with a job requirement or condition which, although applied equally to all, in practice affects members of one race less favourably than another, and has the effect of excluding a higher proportion of members of certain racial groups than members of other racial groups. Section 2 of the legislation covers *victimisation*: it grants protection to individuals who are treated less favourably than other persons by reason of their bringing a complaint under the Act, giving information in proceedings brought by another person, or alleging that there has been discrimination contrary to the Act. Racial harassment, which although not covered explicitly by the RRA, has been shown, under certain circumstances, to constitute racial discrimination.

If a person is a victim of one of the types of discrimination mentioned above, then it does not matter whether that person was a member of a majority or minority racial group. Thus it is unlawful to discriminate against a white person just as it is to discriminate against a black person (Forbes and Mead 1992: 22).

Discrimination in employment

Discrimination in employment is covered in part II of the Race Relations Act; section 4 is entitled 'Discrimination against applicants and employees'.

Section 4(1) covers the treatment of applicants for jobs. It makes it unlawful for an employer to discriminate against an applicant in the arrangements made for determining who should be offered employment, in the terms in which the employment is offered, or by refusing to offer the employment at all.

Section 4(2) covers treatment of persons within employment. This provision makes it unlawful for an employer to discriminate against an employee in the terms of employment which are offered, or in the way access to opportunities for promotion, training, or other benefits or

²⁰ The next paragraphs draw heavily on Forbes and Mead (1992)

facilities are afforded or refused, or by dismissal or subjection to any other detriment (Forbes and Mead 1992: 23)

In a case where direct discrimination is alleged, the burden falls on the complainant to bring forward evidence to the effect that discrimination has taken place. However, it will be very rare that such evidence is easily accessible, as discrimination is usually a secretive process. The tribunal and courts recognise the difficulties that face complainants in these cases, and therefore at some point the burden will shift to the employer to demonstrate that there is no discrimination. If, for example, the complainant can show that he or she has a better level of qualifications or greater experience, the tribunals will expect the employer to produce an explanation to counter that of discrimination (Forbes and Mead 1992: 23).

A second way in which a *prima facie* case can be made out is by the use of statistics. Statistics may be obtained either through testing or from employers' own data, such as ethnic monitoring. If statistics on the composition of the workforce and applicants indicate that the rate of rejection for certain groups was appreciably higher than for other groups, it may be inferred that the employer routinely treated members of those groups less favourably on the grounds of their membership of those groups. If a member of that group then applies for a job and is rejected, it may be assumed that this is on grounds of race. In such a case the employer would again be under a duty to offer a non-discriminatory explanation for the decision (Forbes and Mead 1992: 23).

In cases where indirect discrimination is alleged, a complainant must show that a particular requirement or condition has the consequence that the proportion of his/her racial group who can comply with it is considerably smaller than the proportion of another racial group, and that he/she to his/her detriment, cannot comply with it. If this is demonstrated, then the employer must in return show that it was justifiable to impose that requirement or condition; failure to adduce evidence on that means that the employer loses the case (Forbes and Mead 1992: 23).

3.2. Industrial tribunals

Under the Race Relations Act 1976, aggrieved individuals have direct access to industrial tribunals in employment, training and related cases. Industrial tribunals are composed of a legally qualified chairperson and two lay members who are generally recruited from workers' and employers' organisations. Individuals who lodge a complaint with an industrial tribunal may get preliminary legal assistance from a solicitor at little or no cost, provided their income is within a certain limits, under the Legal Aid Act. The legal aid scheme, however does not extend to the tribunal proceedings itself (Zegers de Beijl 1991: 6).

Copies of complaints under the Race Relations Act are sent to the local office of the Advisory, Conciliation and Arbitration Service (ACAS). This will first try to facilitate a conciliation settlement; if the complaint is not resolved by conciliation or withdrawn for any other reason, it will then proceed to a tribunal hearing. At the hearing complainants and respondents (the people complained against) may put their case in person or be represented by someone such as a solicitor, a representative of a trade union or employers' organisation or by the Commission for Racial Equality (Zegers de Beijl 1991: 7).

If a tribunal decides in favour of the complainant it may require the respondent to pay compensation to the complainant. A tribunal may also recommend that the respondent take a particular course of action within a specified period of time in order to reduce or eliminate any adverse effects of discrimination on the complainant. The tribunal has the power to recommend, for example, reinstatement or promotion of the complainant (Forbes and Mead 1992: 24).

Complaints about employment related discrimination were by far the most important among the total number of requests to the Commission for Racial Equality CRE for legal assistance. The 1999 CRE Annual Report highlights that 72% of CRE supported cases were employment cases. The majority concerned unfair dismissal and detriment, with complaints relating to refusal to offer employment and refused promotion coming in second and third place respectively.

In 1994 statistics from the Department of Employment showed that the number of race discrimination cases completed increased by 11% between 1990-91 and 1991-92 (to 1,032), and 4% between 1991-92 and 1992-93 (to 1,070). Compensation awards made in race cases were relatively few. Awards were made in 27 cases in 1990-91, falling to 22 in each of the two later years. The median award in 1992-3 was £3,333. In all three years around two-thirds of all the cases were conciliated, withdrawn or disposed of otherwise without the need for a tribunal hearing. Of the rest, applicants were successful at tribunal hearings in only 15% of cases in the first two year period, rising to 20% in 1992-93 (*Equal Opportunities Review* March/April 1994).

Most of the complainants who withdraw their applications do so as a result of pressure exerted on them by their employers or in stages of negotiation and conciliation. In 1991 Zegers de Beijl concluded:

Given the vulnerability of the individual employee and the employer's monopoly over information which may be vital for presenting a complaint, it is very difficult for a complainant to prove to tribunal members that the treatment he or she has received was in fact discriminatory The few complainants who win their cases receive little by way of award or compensation. Probably they will have to face relationships with their employers that are seriously disturbed ... up to the point where their prospects for finding other employment might be severely hampered. The individual road to equality obviously is a very difficult one (Zegers de Beijl 1991: 11).

However, in 1994 the £11,000 upper limit on damages in racial discrimination cases was removed.

3.3. The Commission for Racial Equality

The Race Relations Act 1976 established an independent Commission for Racial Equality (CRE) which replaced both the Race Relations Board and the Community Relations Commission. The CRE exists independently of government, although it is funded by government. The CRE is a statutory body comprised of 15 Commissioners who are selected and appointed by the Home Secretary. Under section 43 of the Act its statutory duties are:

to work towards the elimination of racial discrimination

to promote equality of opportunity and good relations between persons of different racial backgrounds; and

to keep the operation of the Act under review and to make such recommendations for amending it, as may be appropriate, to the Secretary of State

The Commission for Racial Equality is vested with wide powers and has a major law enforcement function. It can conduct formal investigations where it is believed that discrimination is or has been occurring, issue non-discrimination notices, institute legal proceedings in cases of persistent discrimination, take proceedings in respect of discriminatory practices, advertisements and in respect of instructions or pressure to discriminate, and assist individual complainants.

Under section 66 of the Act, the CRE has an obligation to consider all applications for assistance from individuals who complain of discrimination. The Commission has the discretion to assist complainants to bring their case, if the case raises a question of principle or if it is deemed unreasonable to expect the complainant to deal with the case unaided. This assistance ranges from advice giving or arranging assistance from a solicitor to representing complainants in court or at an industrial tribunal. In a limited number of areas - persistent discrimination, discriminatory practices and advertisements, instructions and pressure to discriminate - the Commission is empowered to start legal proceedings in its own name (Zegers de Beijl 1991: 8). The CRE alone is empowered to take complaints about discriminatory advertising or pressure to discriminate.

The CRE also has the power to carry out formal investigations into organisations, firms or areas of economic activity where unlawful discrimination is suspected (section 48 -52). Such investigations may result in public reporting and recommendations to change practices or procedures. But if the investigation finds proof of discriminatory acts or practices, it also has the powers to serve a 'non-discrimination notice' (section 58). This notice instructs the body investigated to stop the discriminatory practices and to provide information at a future date to show that it is complying with the Commission's instructions (Zegers de Beijl 1991: 9).

The Race Relations (Amendment) Act

A major amendment to the RRA is foreseen to become law early in 2001. The CRE's powers are significantly extended by the new Act. The CRE will have the power to issue new statutory Codes of Practice for public authority bodies covered by the new Act. Compliance with the new Act will be enforceable by the CRE, and if CRE is not satisfied that a public authority is complying it will be empowered to issue a non-discrimination notice. If necessary, the CRE

can ask the county or sheriff court to order the authority to comply. This new duty will become the CRE's major work priority and is likely to change the face of race relations practice in the coming years.

The CRE and local arrangements

In the 1950s a number of voluntary, welfare and church groups were established to perform charitable and welfare work for the newly-arrived migrants from the New Commonwealth. Over the years many of these local organisations became more formalised and developed into first local Community Relations Councils and then Racial Equality Councils (RECs), as they are known today. RECs are independent voluntary organisations, some have charitable status while others are companies limited by guarantee. The CRE helps to fund them and co-operates with them in joint work and planning. The CRE funds the salaries of some race equality officers employed in the 91 Racial Equality Councils partially resourced by the CRE, and has funded some projects. In most cases the majority of their funding comes from local authorities.

Because the 1976 Race Relations Act enabled for the first time individual complainants to pursue their own complaints before tribunals and courts, Racial Equality Councils are able to provide representation for complainants in cases of alleged discrimination. However, MacEwen (1994) argues that although there is the potential for RECs to increase their representational work substantially, it has not so far formed a significant element in any of the RECs work. Furthermore, a lack of focus in the agreed work programmes and lack of training provided either locally or centrally in respect of legal processes and procedures indicate that such developments are improbable in the shorter term (MacEwen 1994: 361). Some of the local work which could be done by RECs is instead performed by some local authorities who have created special equal opportunities or 'race' units for the promotion of equal opportunities.

3.4. The law and positive action

The above described legal interventions through the Race Relations Act could be described as "protective", involving the creation of rights, which the weaker party can assert through litigation. The other type of legal intervention could be called "facilitative" when a group (of employers, perhaps) is enabled to act in a particular way not previously permissible (Lustgarten 1987: 16). The Race Relations Act also has provisions which could be labelled "facilitative", such as those on positive action.

Positive action covers measures designed to overcome disadvantage over and above what is required to prevent actual discrimination against ethnic minorities. However, as this definition would also include positive discrimination, positive action needs to be more precisely differentiated. The Act does not allow for 'reverse' or 'positive' discrimination or 'quotas'. Unlike positive discrimination, positive action stops at giving ethnic minorities more favourable treatment in competition for jobs. Positive action in employment is the promotion of ethnic minority interests and chances *within existing procedures* for distributing and allocating jobs and training. Positive discrimination on the other hand involves *overriding* existing allocation practices by, for example, appointing minority group members to jobs over the top of the meritocratic competitive system (Edwards 1988: 405).

Sections of the Race Relations Act enable employers, training bodies or others to take a range of positive action measures to help members of racial groups who are under-represented in particular work to compete for that work on a more equal footing with the others in the labour market. This may be necessary because previous discrimination and other causes of disadvantage have prevented certain groups of employees from achieving their full potential. Positive action does not seek to remove competition for jobs but to provide for fairer competition, and selection must remain on the basis of merit, not race.

Section 35 of the Act allows any person or body (including employers and training bodies) to restrict access to facilities or services for education, training, welfare or ancillary benefits, to members of a particular racial group when it meets the special needs of that group. An example is a course of English for speakers of another language.

Section 37 of the Act allows any person or body (including employers and training bodies) to train members of a particular racial group for particular work in which their racial group is under-represented, or to encourage them to take advantage of opportunities for doing it. Training under this section might be directly funded or, in the case of employers, might take the form of work experience placements for trainees being trained by other bodies. Trainees must not be guaranteed a job at the end of their training, as this would constitute positive discrimination.

Section 38 of the Act allows employers to encourage members of a particular racial group to apply for jobs in which they are under represented, or to provide training for their existing employees from a particular racial group who are under-represented in particular work. Again there must be no guarantee of a job for successful trainees. Sections 37 and 38 can be used to benefit any under-represented racial group. Section 35 does not include an under-representation criterion. The provision may be applied to white people as well as members of visible minorities (Forbes and Mead 1992: 22).

3.5. Contract compliance

Section 71 of the Race Relations Act imposes a duty on local authorities to ensure that their functions are carried out with due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity, as well as good relations between persons of different racial groups. This provision makes it possible for local authorities to pursue a policy of 'contract compliance'; this is when local authorities encourage companies to which they give contracts to supply goods or services to comply with minimum requirements on employment practices, including on equal opportunities. This section will be substantially revised under the new RRA Amendment Act referred to earlier.

Contract compliance is not a new intervention. Local authorities have long monitored the employment practices of construction contractors, only offering contracts to those on an approved list with minimum standards of employment contracts. The main impetus for *equal opportunities* contract compliance came from the United States. During the Kennedy administration contractors were required to file compliance reports to contract compliance

offices in government departments, and non-compliance on issues of racial equality led to termination of contract.

In 1987 the UK Institute of Personnel Management (IPM) reviewed the aims and methods of contract compliance. It found that in contrast to the US, where the benefits of contract compliance for equal opportunities are recognised by many employers, contract compliance evokes a relatively lukewarm response by government and employers (except in Northern Ireland where the government strongly supports contract compliance on religious inequality). The Institute of Personnel Management (now known as the Institute of Personnel and Development) comes out unequivocally in favour of contract compliance. It believes that simple 'non-discrimination' is not enough - "without legal intervention (or fears of legal intervention) voluntary initiatives alone do not provide a stimulus for action" (IPM: 1987).

In the 1988 Local Government Act, adopted under the Conservative administration, the government restricted the conditions which local authorities can impose on contractors. However, it seems the effects of the Act on contract compliance by local authorities was less drastic than many had feared at the time. A survey by the Association of Metropolitan Authorities (AMA) in 1990 found that of 34 authorities which responded to a postal questionnaire, the majority continued to use contract compliance as a means of sifting private companies which tender for local government contracts. Fifteen of the authorities in the AMA survey have a special contract compliance unit, and the majority of London councils said that these policies had produced measurable benefits in terms of improved equal opportunities amongst locally based companies (*IRS Employment Trends* 462; 19 April 1990). A report by the Inner London Education Authority (ILEA) contract compliance unit stated that the provisions of the Local Government Act, despite the new restrictions that it contained, provided the first legal framework for contract compliance. As a result, the situation was greatly simplified for local authorities, and the Act gives them access to a more powerful form of contract compliance in respect of racial equality than was previously available. The ILEA's experience of the use of contract compliance policies over a period of seven years suggested that they can lead to greatly improved equal opportunities practices in the companies involved. In its own evaluation study of the operation of its contract-compliance policy covering 152 companies it found that while only 18% operated an equal opportunities policy before the intervention of the contract compliance unit, 75% did so afterwards. In addition, whereas only 2% originally mentioned equal opportunities in job advertisements, 80% did so after review by the unit (*IRS Employment Trends* 462; 19 April 1990).

The unit was more successful in persuading companies to adopt some policies compared with others. In particular there were dramatic improvements in the proportions adopting an equal opportunities policy/statement; using non-discriminatory job application form(s); introducing disciplinary procedures for discrimination or harassment; putting an equal opportunities statement in job advertisements; and monitoring the workforce for equal opportunity purposes. In contrast the lowest level of action following the review occurred with respect to undertaking positive action initiatives (*Equal Opportunities Review* no. 31 May/June 1990).

3.6. Weaknesses of the UK legislation

There have been criticisms that the potential of the Race Relations Act for extending effective equality action is undermined by the fact that it relies on voluntary action to achieve change, (provided only that employers avoid actual racial discrimination) whereas what is needed is “a clear and legally enforceable positive duty upon public authorities to secure that their functions are carried out without racial discrimination”²¹ It is indeed some of these weaknesses that the pending RRA Amendment Act, and other pending legislation, is intended to remedy.

The CRE has argued in the past that legislation should be established that imposes a duty on employers to work for racial equality. Something similar exists in only one part of the UK – Northern Ireland – under the Fair Employment Act 1989, aimed at tackling discrimination against religious groups, and acknowledged to be the strongest equality legislation in Western Europe (Taylor 2000). In Northern Ireland the Fair Employment Commission can investigate an employer and instruct it to take mandatory affirmative action, which, broadly speaking, equates with positive action in Great Britain under the Race Relations Act. Thus, whilst in both Great Britain and Northern Ireland, employers are encouraged to adopt positive action voluntarily, in Northern Ireland if they do not they can be instructed to do so by the Fair Employment Commission (Taylor 2000: 161-2).

Under the Race Relations Act much of the momentum of activity has to be ‘complaints driven’. The CRE has been restricted in its power to conduct formal investigations to those cases where a complaint has been made, or where it has good grounds for believing that an unlawful act may have occurred. The CRE has asked for a widening of its powers to enable it to conduct investigations into named persons without these restrictions. For example, the CRE points out that indirect discrimination is often not recognised as unlawful by those operating the practices involved. Indeed they may not even be applied to any particular member of an ethnic minority. Word of mouth recruitment may be indirectly discriminatory precisely because no one outside the organisation knows the jobs exist. In these circumstances complaints about discrimination are unlikely to be brought to the Commission's attention. Therefore, the Commission argues, it needs to be able to look at selected major employers to enable it to identify what practices may be disadvantaging ethnic minorities (*Equal Opportunities Review* No.46 November/December 1992).

3.7. Evolving legislation

The Labour government, elected in 1997, has been somewhat more sympathetic to strengthening the Race Relations Act in the direction of what the CRE wants. In 1999, following the introduction to Parliament of the Race Relations (Amendment) Bill, the Home Secretary issued a commitment to introducing a duty on all public authorities to promote racial equality. This means that in the future, all public bodies will have to take positive measures to deliver racial equality, obliging public authorities to take action to prevent discrimination rather than merely using the law to seek redress after discrimination has occurred.²²

²¹ Lord Lester speaking during the House of Lords debate on the Race Relations (Amendment) Bill, December 1999.

²² *Connections*, CRE London, Spring 2000.

The soon-to-be enacted Amendment Act's principal aim is to replace section 71 of the RRA with a new, more comprehensive and wide-ranging duty on all body which performs functions of public nature. Specific mention will be made inter alia of police forces, local authorities, health boards and trusts, education authorities and development agencies in a schedule attached to the Bill specifying exactly who is covered. The new positive duty will oblige all public bodies to promote racial equality in all of their functions. This goes far beyond the existing obligation and also far beyond legislation relating to sex equality. Under the new Act, police officers and their Chief Officers will be held liable for acts of discrimination in the carrying out of police functions, in an attempt to avoid future botched investigations such as that into the murder of Stephen Lawrence. Once law, the Home Office and Scottish Executive will be empowered to issue guidance for public bodies. As noted earlier in this section, the CRE's powers and responsibilities are also significantly extended by the new Act. The new legislation is expected to increase consistency of racial equality practice across the public sector and also, importantly, to have a significant indirect impact on the private sector, insofar as it contracts services from the public sector, receives advice or training from the public sector (through learning and skills councils, local economic forums or chambers of commerce) and by means of example.

The second major legislative changes is the coming into force of the Human Rights Act (HRA) on 2 October 2000. The HRA, which translates the UK's ratification of the European Convention on Human Rights into domestic law, has received widespread media coverage and its implications are not yet clear. Through the European Human Rights Convention, British citizens are protected from discrimination on racial grounds in the exercising of any of their Convention rights. In other words, this will again not have a direct impact on the private sector, but will have an indirect impact. Discussions are still ongoing as to the relationship between the HRA and the RRA, and as to what the role of the CRE will be in taking cases under the HRA.

A third legislative change is the adoption of two EC Directives – one on discrimination and one on employment. The Employment directive gives the UK Government three years to outlaw discrimination on grounds of, inter alia, religion and sexual orientation. Within six years new legislation on grounds of age will have to be introduced. In combination with ratification of ILO Convention No. 111 in 1999, this will ensure that religious discrimination will be outlawed in the coming years and avoid victims of religious discrimination from having to take indirect discrimination cases under the RRA.

4. VOLUNTARY MEASURES

This section looks at initiatives on equal opportunities which are adopted at an organisational level. They are relevant equally to private sector businesses, public sector organisations, and local municipalities. Two bodies which advise and encourage employers to adopt 'good practice' in this area are the CRE and the Race Relations Employment Advisory Service of the Department for Education and Employment (DfEE).

4.1. The CRE's Code of Practice

One device introduced in the 1980s to stimulate 'voluntary' activity is the CRE's "Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equal Opportunity in Employment", drawn up in consultation with employers' and workers' organisations. It aims to give guidance to help employers and others to understand the law, and gives recommendations on policies which can be implemented to help to eliminate racial discrimination and enhance equality of opportunity on the work-floor (Zegers de Beijl 1991: 9). The Code itself does not impose legal obligations, and only has advisory status. However, evidence about the performance of the Code's recommendations can be taken into account by industrial tribunals in deciding whether an act of unlawful discrimination has occurred and assessing the degree of liability by employers for any such acts (Gribbin 1994: 35).

In addition to the Code of Practice, the CRE also has a raft of support services to assist employers in implementing voluntary measures, ranging from specific promotional campaigns to providing guidance on drafting an equal opportunities policy or undertaking ethnic monitoring. One of its core functions is to advise and assist employers to prevent workplace discrimination and the CRE has officers stationed all over Britain who provide advice and assistance free of charge.

4.2. The Race Relations Employment Advisory Service

The Department for Education and Employment's Race Relations Employment Advisory Service (RREAS) provides advice and guidance to employers, trade unions and others on the promotion of equal opportunity and other issues relating to a multi-racial workforce. It provides guidance on the employment provisions of the Race Relations Act 1976 and the CRE's Code of Practice, and in particular it helps with recruitment and selection issues, and how to formulate an equal opportunity policy. It does not charge for its services, and is not concerned with enforcement of the legislation or investigatory work.

In 1992 the RREAS issued a 10 point action plan in a new equal opportunities guide for employers. The guide covers equal opportunities for women and the disabled as well as for ethnic minorities. Under this action plan employers are encouraged to :

- Develop an equal opportunities policy, embracing recruitment, promotion and training.
- Set an action plan including targets.
- Provide training for all to help people throughout the organisation understand the importance of equal opportunities, and provide additional training for staff who recruit, select and train.
- Monitor the present position to establish the starting point, and monitor progress in achieving objectives to identify successes and shortfalls.
- Review recruitment, selection, promotion and training procedures regularly.
- Draw up clear and justifiable job criteria.
- Offer pre-recruitment training.
- Develop the organisation's image within the community.

- Consider flexible working, career breaks, provision of childcare facilities etc, to help women, in particular, to meet domestic responsibilities and pursue their occupations.
- Develop links with local community groups, organisations and schools.

4.3. Surveys of employers' equal opportunities initiatives

Towards the end of the 1980s and in the early 1990s a number of surveys were carried out to gain information on the extent to which employers were voluntarily adopting equal opportunities policies. The state of awareness and extent of good practice amongst British employers on the above issues was mixed. The CRE's 1989 survey of employers' use of the Code of Practice revealed ignorance and misconceptions on the part of many employers. Respondents in their survey were asked to state what they understood by indirect discrimination. About half gave incorrect answers which indicated varying levels of understanding. There were several misconceptions revealed in the incorrect answers. Some respondents appeared to believe that intention to discriminate was necessary for there to be indirect discrimination. Others thought that it referred to a willingness to recruit but not to promote; or to unconscious prejudice or reverse discrimination. Just fifteen per cent of employers gave correct replies (CRE 1989: 9).

The CRE's survey found that only a minority of employers were fully implementing the recommendations of the Code. The proportion was significantly higher among large employers, public sector employers and employers with a substantial ethnic minority workforce. There was, however a high level of basic awareness of the Code: two thirds of the employers surveyed had heard of it, rising to 95% amongst large employers. Two hundred and twenty nine (25 per cent) employers had read through or glanced at the Code, and these were interviewed. Of these 229 employers, two thirds had formal (written) equal opportunities policies, but fewer than four per cent had comprehensive policies with adequate systems for monitoring their effectiveness. Over half of the employers interviewed said that they had checked their recruitment practices and ten per cent found evidence of racial discrimination. Over one third of the employers said that as a direct result of the Code of Practice they had drawn up or revised their equal opportunities policy, had reviewed their recruitment methods and selection criteria and had taken some form of action to encourage ethnic minority applicants. Twelve per cent of the employers interviewed also said that they had recruited more ethnic minority employees as a result of action taken to implement equal opportunity programmes (quoted in Zegers de Beijl 1991:13).

In autumn 1992 the publication Equal Opportunities Review, (EOR) carried out a survey of its subscribers to identify which initiatives are being undertaken by employers to promote equal opportunities for ethnic minorities. Respondents to the questionnaire were asked whether they had adopted any of the ten following measures:

- an audit of ethnic minority employees;
- ethnic monitoring of job applicants;
- an equal opportunity action plan;

- equality targets for recruitment;
- equality targets for management posts;
- recruitment initiatives to encourage ethnic minority applicants;
- training for recruiters and selectors on avoiding race discrimination;
- positive action pre recruitment training
- positive action training for ethnic minority employees
- *a racial harassment policy.*

The survey received responses from 166 organisations out of 750. Of these, 104 organisations (63%) were from the public sector, 55 (33%) from the private sector and seven (4%) from voluntary organisations. Within the public sector the largest number of respondents were from local authorities. The most popular race equality initiatives were the provision of guidance on race equality to recruiters and selectors, and recruitment initiatives to encourage ethnic minority applicants. In contrast only a minority of respondents had introduced positive action training schemes or had set targets for ethnic minority recruitment or ethnic minority representation in management positions.

Comments regarding implementation of a number of these measures follow.

4.3.1. The audit of staff

An important first step in the development of a strategy to promote equality of opportunity is to gain statistical data on the current composition of the workforce. The CRE stresses that data on the ethnic origin of all employees and trainees are needed in order to identify where ethnic minority staff are employed in the organisation and to compare their progress with that of white staff. This ethnic profile of the workforce provides baseline against which progress can be measured. An example of such an employee audit is that carried out in the mid-1990s by the Virgin Our Price retail stores, part of WH Smith Group. The aim of the audit report was to provide the information needed to manage equal opportunities in exactly the same way as other aspects of business performance, by identifying areas of poor performance for corrective action. Personal information forms were issued to all employees including a request to self-nominate their ethnic origin. The audit was prefaced by articles in the Group's in-house magazine and was supplemented by briefings for works teams and managers. The results of the audit provided information on ethnic groups, gender, disability and part-time working broken down by business and by grade. A response rate of 84 per cent was achieved. In this case the audit revealed that although the proportion employed was broadly in line with the size of the ethnic minority population nationally (just over 5 per cent), ethnic minorities were shown to be under-represented in the Group in middle management and senior positions, and the management set in motion an equal opportunities strategy designed to produce over time a more balanced representation. As the Managing Director of the WH Smith Group made clear: "*We see the audit as a landmark stage in our equal opportunities strategy. After all, if you can't measure it, you can't manage it*" (Wrench 1997a: 42-45).

Following the initial employee audit, it is necessary for an organisation to continue ethnic monitoring of the workforce and of the decisions made at recruitment, selection, promotion and redundancy stages. Such statistics can reveal unintentional discriminatory outcomes and allow employers to deal with problem areas by reviewing standard practice and providing specific training to increase awareness and introduce new techniques to ensure fairer outcomes (Forbes and Mead 1992: 43).

4.3.2. Ethnic monitoring

A survey into ethnic monitoring best practice was commissioned by the Department of Employment, covering 22 public and private sector organisations (Jewson et al. 1992). Despite have been selected as case studies on the grounds of being the most advanced in the field of ethnic monitoring, most organisations were found to be still in the process of developing their monitoring systems, and even the most advanced had made less progress than the researchers expected. As well as the technical constraint of getting accurate base line data on the ethnic composition of the local labour market, there were continuing problems of uncertainty about the definition of ethnic monitoring categories, exacerbated by the need to update categories to keep abreast of demographic and political changes. Nevertheless, all the organisations reported that they found something of value in the practice of monitoring, not least the fact that the very process of recording and returning data gives a degree of systematisation of recruitment and selection procedures and criteria which might previously have been absent.

4.3.3. Equal opportunities action plans and statements

According to the 1992 RREAS guide for employers, an action plan should allocate responsibilities so that staff know what is expected of them with regard to the equal opportunities programme, and should identify specific objectives and targets, as well as deadlines for when these should be reached. It should also specify in what way and by whom the progress of each part of the action plan will be measured and assessed. An important component of an equal opportunities action plan is an equality target.

The majority of respondents to the EOR survey used an equal opportunity statement in their job advertisements. The research quoted earlier which used speculative applications from people from different ethnic groups to one hundred top UK companies was able to compare the responses of companies with equal opportunities statements to those without (Noon 1993). The researcher was interested to see whether the inclusion or absence of an equal opportunities statement of intent was indicative of any difference in actual treatment. Thirty-nine per cent of the companies without such statements treated the candidates equally, compared with 52% of those companies that had equal opportunity statements, so a greater proportion of companies with a stated equal opportunity policy engage in fair practice. However, this still meant that 48% of the companies with equal opportunity statements did not treat the candidates equally, and where this was the case, 'Evans' was treated more favourably than 'Patel' in proportions greater than companies without statements. The results suggest that statements of policy alone are poor indicators of good practice.

4.3.4. Equality targets

An equality target consists of a figure of ethnic minority employees which employers would aim to reach by a specific date, through both positive action and through measures to eliminate direct and indirect discrimination. Targets may be defined in relation to the percentage of ethnic minority population in the relevant area or labour market, but they are not quotas and must not be reached by discriminatory selection decisions.

The Employment Department's "Equal Opportunities Ten Point Plan for Employers" suggests that equality targets should:

- relate to numbers or proportions of under represented groups in, or recruited to, particular jobs or grades
- cover jobs which require higher-grade skills, carry additional responsibility, or provide essential experience for longer-term career development
- be expressed, where appropriate, in terms of composition of the workforce as a whole

In the UK, equality targets are most likely to be found amongst local authorities, such as Birmingham and some London Boroughs. The Equal Opportunities Review survey of its subscribers asked respondents whether they had set any numerical targets for the recruitment of ethnic minorities and if so what these targets were, how they were determined, and how the respondents proposed to meet them. Forty-eight organisations (28.9%) stated that they had set recruitment targets. In the majority of cases the local labour market was the basis for setting targets. However where, an organisation is recruiting graduates for professional jobs, the national labour market is used as the basis for setting targets (*Equal Opportunities Review* No.48, March/April 1993: 17).

The survey found that many respondents preferred not to use the word 'target'. Instead words such as 'yardstick', 'benchmark' and 'estimates' were preferred. Sensitivity to the word 'target' appears to be related to a concern that numerical targets will be confused with quotas. Several of the EOR's respondents mentioned that they might be seen as quotas or as a form of discrimination. The comments made included the following: " we do not wish to simply fill the quota"; "targets are viewed as positive discrimination"; "we want to avoid quotas"; "positive action is seen as the way forward. Targets are seen as discriminatory". The EOR notes that this concern persists despite the fact that both the Employment Department and the CRE have endorsed the use of targets and clarified the distinction between targets which are lawful and quotas which are unlawful (*Equal Opportunities Review* No.48, March/April 1993: 17). One of the factors deterring organisations from setting recruitment targets was found to be the fact that no recruitment was taking place in the current recession. Some respondents said that redundancies or uncertainties about recruitment made it impossible to set targets for the immediate future.

Setting targets has often been a difficult exercise for employers. The definition of a particular recruitment catchment area against which to measure the under-employment of ethnic minorities has not always been simple to calculate, due to imprecise local data. However, data is now available from the 1991 Census of Population which provides a breakdown of the population and labour force by broad ethnic group for detailed spatial areas. Census data can be used to calculate the ethnic group composition of the population within the catchment area reported by

an establishment, and also the ethnic composition of the age groups and occupations from which it is recruiting labour. This could be used as a relatively accurate benchmark against which to compare the ethnic group composition of an organisation's employees.

4.3.5. Recruitment initiatives

The majority of respondents to the EOR survey (87.3%) were engaged in a some sort of recruitment initiative to encourage ethnic minority applicants. Most used an equal opportunities statement in job advertisements and nearly two-thirds placed job advertisements in ethnic minority press and used ethnic minority images in their publicity material. Nearly a third of those taking recruitment initiatives were engaged in other initiatives, including translation of job adverts into ethnic minority languages, circulation of job vacancy advertisements to ethnic minority organisations, and positive action pre-recruitment training. Respondents were also asked whether they provided equal opportunities training for those involved in recruitment and selection, and if so whether this included guidance on avoiding race discrimination. The vast majority of respondents were providing such training (*Equal Opportunities Review* No.48, March/April 1993: 18).

4.3.6. The use of positive action

Only a minority of respondents to the EOR survey had introduced positive action schemes. Positive action is one tool in the drive to correct for past discrimination and disadvantage. It is argued that if equal opportunity policies are not merely intended to eliminate discrimination but are also seen as programmes aimed at producing 'equality of results', then elements of positive action must be involved. Where an organisation has gained an image as one unsympathetic to ethnic minority employees, and where previous discrimination has left an all-white workforce, then simply removing previously discriminatory practices within an organisation will not be enough. Positive action policies are needed to provide the extra encouragement and/or training which may be necessary. As stated in Section 3.4, the law allows for the training of members of an under-represented group to help them compete for work on a more equal footing with others in the labour market.

In her 1988 review of positive action measures, Burney notes the examples of positive action by British employers quoted in the CRE 1985 booklet *Positive Action and Equal Opportunity in Employment*, and remarks:

Anyone who starts to look further into the subject will soon find that these plus a few other examples are the ones always being held up as models, with very little evidence that the models are being adopted on any significant scale at all. The private sector examples are minimal, despite the fact that equal opportunities is now regarded as progressive management practice and there are probably about 100 big companies who carry out ethnic monitoring of their workforce (Burney 1988: 13).

In the early 1990s the Employment Department commissioned its own survey of the use of positive action measures in employment, to see whether Burney's rather pessimistic conclusions were still valid (Welsh et al. 1994). This covered 151 employers and training bodies known

by the Department to have recently undertaken positive action. The main findings were as follows:

1. Most of the employers taking positive action were large organisations with 90% employing more than one thousand people. Some 88% of employers reported that the decision to introduce positive action was taken at board level or by the managing director or chief executive.
2. The most commonly cited reasons for introducing positive action were to demonstrate a commitment to social justice and to make better use of human resources. However, organisations also sought a variety of other benefits, including an increased volume of trade with ethnic minority groups, and access to contracts where fair employment practices are a condition of tendering.
3. All of the employers surveyed had taken positive action in the context of an equal opportunities policy. Some 45 per cent of employers surveyed had targets and timetables for improved ethnic minority representation.

A number of outside bodies had influenced decisions to introduce positive action, particularly the CRE, and the RREAS.

A general conclusion of the research was that employers had made patchy use of the various types of positive action available under the Race Relations Act and that its overall impact is probably limited. Measures to encourage more ethnic minority applications were more widely undertaken than positive action training. Messages designed to solicit more ethnic minority applications had been included in advertisements by 82% of employers. Around four-fifths of the employers surveyed had advertised in the ethnic minority press and a similar proportion had sought to target job centres, schools and careers offices in ethnic minority areas.

In contrast only 44% of employers studied organised pre-entry training and 33% provided in-service training. Where employers has organised positive action training (either for their own staff or for non-employees) the throughput on many schemes has been relatively small. Of the employers who had conducted training, about a half had trained fewer than 50 trainees in the previous 3 years (and a third had trained fewer than 10 trainees).

Only a third of employers noted that encouragement measures led to a significant increase in applications and thirteen per cent considered that the net impact on ethnic minority representation in the workforce was significant. In contrast the proportion of positive action trainees progressing into employment was higher. More than half the employers surveyed reported that 90% or more of trainees subsequently gained employment. The implication of this is that the most widespread forms of positive action have been least effective, whilst those which appear more effective have been less widely undertaken, and conducted on a relatively small scale.

4.3.7. Racial harassment

Respondents were asked whether they had a policy on racial harassment in their organisations.

Seventy-five organisations (45.2%) had already introduced a written policy; of these 58 had a workplace harassment policy which covered several forms of harassment, including racial and sexual harassment. The other 17 organisations had introduced a separate racial harassment policy. Another 33 replied that they had a policy in draft form or were planning to introduce one. However just over a quarter (27.1%) had neither a policy nor plans to introduce one (*Equal Opportunities Review* No.48, March/April 1993: 19).

The EOR concluded that it was encouraging that the majority of organisations in its survey were engaged in a variety of initiatives to improve the representation of ethnic minorities in the workplace. However, it should be remembered that this survey only covered those employers who were already subscribing to the journal, and of those, only employers who chose to reply to the questionnaire. This is inevitably a self-selecting sample of employers who are more likely to be taking action on the equal opportunities front, and should not be seen as representative of British employers as a whole. Having said that, the 166 organisations which took part in the survey were a significant section of British employers, covering a combined workforce of over 2.1 million people.

4.4. Developments in the 1990s

By the beginning of the 1990s several major UK employers had had formal equal opportunities policies and monitoring schemes for many years. One example of a high profile initiative was the “10 Company Group”, a consortium of major employers including the Rover Group, TSB, and J. Sainsbury, who joined in an initiative to improve the representation of ethnic minorities on their Youth Training Schemes. Companies which became nationally prominent in their equal opportunities policy development included the WH Smith Group, Littlewoods, the Midland Bank, the John Lewis Partnership, and Asda. However, in the light of the earlier-mentioned surveys, the question had to be asked as to how typical these were, and how widespread the practice of equal opportunities. What about small and medium sized enterprises? Furthermore, it was significant that most examples seemed to come from the retail sector, where the market advantage of a greater appeal to ethnic minority clientele was most apparent.

At the beginning of 1995 the CRE surveyed 168 companies and their 149 subsidiaries in Britain. The survey showed that 88 per cent of the companies and 63 per cent of the subsidiaries had issued statements committing them to racial equality. However, only 45 per cent of the large companies and 13 per cent of the subsidiaries had a serious plan for implementing racial equality (*Guardian* 25 February 1995). The recognition that the high profile cases were not ‘typical enough’ led to a number of initiatives in the 1990s by the CRE and others which were designed to further stimulate ‘voluntary’ activity in this area. One was the ‘Race for Opportunity’ campaign, launched in October 1995 “to encourage business to invest in the diversity of Britain’s ethnic minority communities”. The CRE also introduced a new standard for equality in the workplace, entitled “Racial Equality Means Business”. This is a standard for employers “to help them assess what they have done and what action is needed to make a real impact in removing racial discrimination” (*Guardian* 25 February 1995).

A 1997 CRE initiative, the “Leadership Challenge” aimed to get Britain’s leaders to declare their commitment to the principles of diversity and racial equality and the practices to work towards these. Under an agreement with the CRE, prominent leaders promised to assume

personal responsibility for the racial equality performance of the organisations they led, including the Governor of the Bank of England, the Director General of the BBC, the Chief of Defence Staff, and the Chief Executive of the Stock Exchange (*Daily Telegraph* 12 June 1997). By May 1998 the leaders of 178 companies and organisations had signed up to the ‘Challenge’. Following this came “Race for the Future”, a DfEE initiative “aimed at taking the message to employers that racial equality in the workforce is essential for good business practice”, through regional conferences aimed at local business leaders, and other events. The Leadership Challenge remains the CRE’s flagship campaign for working with the private, public and voluntary sectors. It was “relaunched” by the CRE’s new Chair at an event on 22 November 2000. Its current status is more than 400 signatories, including Tony Blair and Gordon Brown (Chancellor of Exchequer).

As stated in Section 2, in 1999 the Stephen Lawrence Inquiry put the issue of institutional racism on the public agenda and provided a stimulus for many public organisations and local authorities to review their equal opportunity and anti-racism procedures and to develop new initiatives. For example, in March 2000 the UK Home Office published the document “Race equality in public services” (Home Office 2000). This provided a public statement of what the government was doing, and intended to do, in promoting race equality. The government’s agenda included the development of a ‘race equality performance management system’ and the introduction of race equality employment targets for the police, fire, prison and probation services, which aim to reflect the proportion of the ethnic minority community locally or nationally. Targets are also set for the retention of ethnic minority staff, with the aim of ensuring that ethnic minority staff do not leave at a rate greater than white staff. Progress against the targets is to be monitored, and ‘milestones’ set for three and five years. Similarly the government has set a target to double the number of people from ethnic minority background in the Senior Civil Service by 2004/5 (Home Office 2000: 44-45).

4.5. The diversity management approach

It is significant that the introduction of many of the above campaigns coincided with the era when a qualitatively new approach to equal opportunities was appearing in Britain – that of ‘diversity management’. The management of diversity is a philosophy which was already well established in the US, and began to take hold in the UK in the 1990s. The reasons for its growth in Britain are said to be similar to those in the US – for example, the growing ethnic heterogeneity of the workforce, and the fact that women are increasing as a proportion of the labour force. Alongside the processes of the differentiation of the labour force are those of economic restructuring and technological developments which produce changes in the organisation of work and which raise demands for new abilities, knowledge and skills.

Diversity management represents one way in which organisations have responded to these changes. It is a strategy which states that organisations should use the differences which exist amongst employees to increase profitability. As part of this process, an organisational culture should be fostered which enables all workers to operate and cooperate in ways which will lead to greater efficiency and increased productivity. Some go so far as to say that organisations with a high level of diversity have advantages over, and are likely to function better than, organisations which are relatively homogenous in their make-up. Indeed, the distinctive and

defining attribute of “managing for diversity” is that it describes a philosophy that is primarily motivated by business efficiency and market advantage.

Earlier we had noted the existence of reservations and misconceptions amongst employers about equal opportunity policies and anti-discrimination practices, with, for example, a tendency to confuse ‘positive action’ with ‘positive discrimination’. One stated advantage of a ‘diversity management’ approach is that it reduces this kind of resistance by reconstituting equal opportunities in the language of human resource management. According to one UK employer, the new diversity approach has made equal opportunities easier to sell within the company:

When the emphasis was on gender and race, many employees felt excluded. Now with a broader and more inclusive agenda, the policy is accepted as just being about people and what is best for the business (Equal Opportunities Review No. 81, September/October 1998: 22).

Also, diversity management would seem to have a progressive appeal to equal opportunities theorists and activists, as the phenomena of ethnocentrism, racism and discrimination are strongly rejected as part of its working philosophy.

For people working towards the elimination of racism, managing diversity offers what appears to be a potentially powerful medium for getting their argument heard. Managing diversity invites belief in the potential for eliminating racism through a business argument. (...) Managing diversity seems to provide a powerful avenue for mainstreaming issues of racism so that management do not peripheralise racism or provide token support to antiracism. (Grice and Humphries 1993: 10).

Diversity management practice is being disseminated not only in the UK but elsewhere across the European Union. The European Business Network for Social Cohesion launched in 1998 its “Gaining from Diversity” strategy, an initiative supported by the European Commission, with the aim of disseminating good practice across Europe on ‘diversity issues’. It is clear that, over the next decade, amongst the various ways of approaching equal opportunities in organisations the approach of diversity management will be the ‘one to watch’.

Nonetheless, it has been noted that a major difficulty with diversity management is that it focuses upon valuing individuals while discrimination tends to treat people as members of groups. Diversity management is accused of ignoring the reality of discrimination and how it operates, assuming that British workplaces are “diverse” and representative of British society.

However, at the same time as equal opportunities initiatives are becoming ‘mainstreamed’ through the spread of diversity management, there are counter trends which can undermine the effectiveness of centralised equal opportunity practice. In some companies a trend has been noticed towards devolution and decentralisation of managerial power and responsibilities, often to a ‘cost centre’, making ‘cost-consciousness’ the responsibility of members of staff lower in the hierarchy. The locus of decision making in recruitment shifts down towards lower-level line managers/supervisors, weakening the control of professional personnel specialists. This has implications for equal opportunity and anti-discrimination measures - the professional guidance of equal opportunities specialist personnel staff is weakened, and financial

considerations become paramount for line managers. "In the absence of a clear appraisal sanction or budgetary implication for non-compliance, equal opportunities is likely to have a low priority" (Jewson and Mason, 1991).

This point leads to the bigger question as to whether the future progress and 'mainstreaming' of equal opportunities and anti-discrimination initiatives should be a function simply of the adoption of diversity management and the business argument inherent within it, when in some cases the organisational climate may be unsympathetic to equal opportunities and a business pay-off may not be readily apparent. One of the main criticisms of the diversity management philosophy is that by relying on the business argument it neglects all the other moral and social reasons for action, including that of corporate responsibility. If the only argument for fighting discrimination and racism is that they are bad for business, then the corresponding implication is that there is no imperative to fight them in those circumstances where business or market arguments are not relevant. This and other criticisms of diversity management are elaborated on in section 6.

5. COLLECTIVE ACTION AND TRADE UNIONS

Whilst the previous sections covered issues relating primarily to the actions of government and employers respectively, this section addresses concerns more relevant to trade unions. Trade unions have their own part to play in the furthering of equal opportunities and the prevention of racial discrimination in employment. However, just as these issues were becoming recognised as an important part of trade union agendas, trade union membership and influence in Britain began to decline. In 1979 union membership stood at 13 million. By 1996 this was down to a little over 7 million, a figure representing roughly one third of employees in Great Britain.

In contrast to many other European migrant-receiving countries, the post-war migrant workers to Britain had an above average propensity to join trade unions. A Policy Studies Institute survey showed that in 1982, 56% of Asian and West Indian employees were union members, compared with 47% of white employees (Brown 1984: 169). Although some of this difference was due to the fact that ethnic minority workers were over-represented in those industrial sectors where trade union membership rates are higher for *all* workers, the greater inclination for ethnic minority workers to join unions held true even when allowing for the differences in occupational concentration. The latest PSI report showed that for both men and women, all minority groups except the Pakistanis/Bangladeshis had a higher rate of membership than white people (Modood et al. 1997: 135). However, there are some recent trends which raise questions for trade unions in this area. Whilst minority ethnic women are slightly more likely than female employees in general to be union members, between 1993 and 1997 there was a sharp fall in male minority ethnic trade union membership from 37 to 27 per cent. It may be that the recession has affected male ethnic minority trade unionists disproportionately, forcing more of them to move into non-unionised employment (TUC 1998: 3). Meanwhile, the CRE year 2000 employment research showed that only 1% of ethnic minority employees would turn to their union with an allegation of workplace racism and are more likely to turn to the police.

5.1. Equal versus special treatment

There was one question which began to occupy trade unionists in the 1960s with regard to their new immigrant membership: should a trade union concern itself only with issues common to white and ethnic minority members or should it in addition operate special policies relating to the specific interests of the latter? On this point there was initially a consensus at all levels of the trade union movement, including the Trades Union Congress (TUC), namely that to institute any special policies would be to discriminate against the white membership. As one TUC official put it in 1966: "There are no differences between an immigrant worker and an English worker. We believe that all workers should have the same rights and don't require any different or special consideration" (Radin 1966: 159).

However, in the early 1970s the TUC changed its stance and began to adopt special policies against racism. First the TUC began to produce educational and training materials on equal opportunities for use in trade union education courses. Then, in 1979 the TUC sent out a circular to all its affiliated unions recommending that they should adopt a policy on racism. In 1981 the TUC published "Black Workers: A TUC Charter for Equal Opportunity", encouraging unions be more active on the issue. The Charter's main points include:

- the need to remove barriers which prevent black workers from reaching union office;
- the need for vigorous action on employment grievances concerning racial discrimination;
- a commitment to countering racist propaganda;
- an emphasis on personnel procedures for recruitment and promotion being clearly laid down;
- the production of union material in relevant ethnic minority languages when necessary, and
- the inclusion of equal opportunity clauses in collective agreements.

Seven years later the TUC re-issued the Charter. The TUC also worked with the Commission for Racial Equality in the production of a "Code of Practice", and has encouraged unions to make use of this code.

Increasingly, individual unions have set up separate committees or structures to deal with race relations and/or equal opportunities issues, and adopted equal opportunity policies and anti-racist statements. In 1986 the National Union of Public Employees (NUPE - now merged into UNISON) was the first union to create a specific 'race equality' post, and this was followed by the Transport and General Workers Union (TGWU) in 1989. Since then many unions have created national officers to take responsibility for issues affecting black²³ members, for

²³ In this section, the term 'black' is frequently used interchangeably with the term 'ethnic minority' to include all non-white people, as in the UK this is the way that the term is employed in most of the trade union debates and publications to which reference is made. There have been debates at recent British trade union conferences as to whether it is still appropriate to use the term in this way.

encouraging the participation of black members and furthering equal opportunities. British unions have tended to use the two pronged approach of facilitating separate structures such as Black Workers' Committees, and encouraging more black membership. The CRE is now encouraging the "mainstreaming" approach so that black members issues are not dealt with tangentially but as a core function.

A report on 'Involvement of Black Workers in Trade Unions' by Ruskin College and Northern College and published by the TUC, was launched at the 1992 annual TUC Black Workers' Conference. It makes a number of recommendations on how unions could improve their structures for black workers. It urges unions to review their structural arrangements to see 'how far they provide an opportunity for black members to come together to establish their own priorities, to pursue their concerns and interests and to feel that they have a real voice in the shaping of union policy and priorities'. (*Equal Opportunities Review*, March/April 1992). Unions should monitor their own membership and composition of union decision-making bodies by ethnic origin, set targets for proportions of ethnic minority members on executive councils and other major committees, and develop closer links between race structures and bargaining structures. Furthermore, the report calls on unions to advertise to ethnic minority members their willingness to pursue grievance procedures and industrial tribunal claims in cases of discrimination and harassment, and review the training for full-time officers taking in discrimination cases. Unions should have rules condemning racism, including the power to expel those who have discriminated on grounds of race.

A 1993 survey of 21 unions, covering two-thirds of TUC affiliated membership (*Equal Opportunities Review* September/October 1993) showed that at a national level ten unions had a committee dealing specifically with race equality issues, and nine had some black full-time officials. Nearly two-thirds of unions had taken positive action steps such as organising conferences for black members and producing literature in ethnic minority languages. However, only six undertook ethnic monitoring of new recruits and only one monitored existing members (Mason 1994: 307).

5.2. Current issues: Racism

There are two main areas of concern today where the debate about special policies are seen to be most relevant. The first of these concerns the problem of racism and how to tackle it, and the second related issue concerns the level of ethnic minority participation in union activities and structures. Black members still argue that unions are slow to act against the racism and discrimination they experience, both in wider employment and within the movement itself. One black shop steward told researchers "White stewards are blind to the impact of racism on black workers because they have never experienced it". Another said "Even those white people that want to take these issues on are too frightened ... they just leave it to me" (Virdee and Grint 1994: 212).

Under the Race Relations Act individuals who feel that they have been the victims of racial discrimination may institute proceedings, and employment cases are heard by industrial tribunals. As shown in Section 3, the success rate of applications to industrial tribunals alleging unlawful discrimination is very small; experience shows, however, that the likelihood of success of an applicant increases if he or she is supported at the tribunal by their union.

However, research published in 1991 showed that ethnic minority workers still had little faith in trade unions to take up grievances over discrimination and harassment. Instead, they often preferred to seek the support of the Commission for Racial Equality (TUC 1991). Trade union officials have argued that they are reluctant to take racial discrimination cases to industrial tribunals because of the poor record of success in such cases. The CRE has been trying to encourage more unions to get involved with their members who have complaints in such cases, and argues that if trade unions give greater priority to cases of racial discrimination at industrial tribunals, then the success rate will improve.

In his speech at the 1999 annual congress of the TUC, the Chairman of the CRE stated that during the previous year there had been 31 cases in which victims of racial discrimination had sought the help of the CRE after their trade union had rejected their plea for representation. He also pointed out that in the previous three years there had been 15 cases where a trade union itself had been the alleged discriminator.

In 2000 the TUC initiated a "Root out Racism" campaign through its newly formed Stephen Lawrence Task Group, set up after the 1999 Macpherson report into Stephen Lawrence's murder (see Section 2.2 above). The aim was to collect examples of racism at work and of the effects it has on those who suffer from it. To facilitate this a special telephone hotline was set up for five days in June to collect evidence and to offer advice to those who sought help, and ultimately the intention is to make the evidence available in a report to the media. Since then, an ongoing TUC hotline was launched and has received widespread media coverage.

5.3. Participation in unions

Although the density of union membership has traditionally been higher among the black/ethnic minority population than for white workers, the participation in union positions has remained much lower, particularly at the senior level. The 1984 PSI study found that black/ethnic minority members were much less likely to hold an elected post than white members even though they were more likely to join unions than white people, and attended meetings with about the same frequency (Brown 1984: 170). The latest PSI study showed that although there had been a decline in the level of membership across all groups, there had been an increase in the numbers of those holding elective union posts, especially among South Asians. However, whilst the highest rate of membership was among the Caribbeans, fewer Caribbean men held an elective post than whites or South Asians, although there were no differences in the case of women (Modood et al. 1997: 135).

In 1999 it was pointed out at the TUC annual congress that most trade unions had no black full-time officers. Two unions – UNISON and the TGWU – employed 18 between them, and the other unions collectively had just eleven. Research in the 1970s and 1980s showed that one reason there were so few black shop stewards was that they weren't 'invited' through the usual informal processes. Furthermore, a black worker who felt that racism was a feature of the work environment would be less likely to take on a position which entailed making "personal sacrifices for the collective good" (Phizacklea and Miles 1980: 125). Black workers reported that at union meetings they felt that their issues were being excluded because of the apathy of the white majority (Lee 1984: 12). This was seen as the fundamental problem of being a minority in an organisation run by majority interest, and led to the debate on whether there should be

separate black structures of organisation within trade unions.

Self-organisation within unions

Many white trade unionists argued against self organisation for black workers on the grounds that class-based interests as employees and workers take precedence over any other sectional interest such as race or ethnicity. The 'colour-blind' trade union approach argues that whatever problems minorities suffer from can best be resolved through a strategy that asserts from the beginning that all are equal. Autonomous organisations within the body politic, therefore, are considered as divisive and counter-productive (Virdee and Grint 1994: 208). In reply to this position, the supporters of self-organisation deny that such structures detract from the mission of the union, and argue that, on the contrary, it provides an extra means of achieving the main goals of the organisation whilst ensuring that black/ethnic minority issues and rights are addressed by the trade union in a way acceptable to black members (Virdee and Grint 1994: 209-210).

In the light of these debates, and the perceived centrality of trade unions to any advance in equal opportunity in employment, the CRE in the early 1990s commissioned research on the participation of black/ethnic minority workers in unions (CRE 1992). The research included interviews with black and white members and officials in three separate unions. The issue of self-organisation was raised regularly by interviewees. Factors which gave rise to demands for self-organisation included disillusionment with the slow progress unions were making on racism, on encouraging black participation, and on negotiating race-related equal opportunity issues. However, only a minority of respondents in this research saw self-organisation to mean the creation of a separate black trade union. More common was the view expressed at the TUC national Black Workers' Conference in 1992 that self-organisation meant the creation of black members' groups at all levels in a union, with an annual black workers' conference where decisions are made by black representatives on issues of specific concern to black members.

Virdee and Grint (1994) come to the conclusion that a strategy of self-organisation may be a viable addition, if not necessarily an alternative, to conventional policies. This is especially so where general representatives are not regarded as adequate to the task of articulating and resolving the grievances of particular interests. They conclude that the practice of non-discrimination is not guaranteed by anti-racist policies and regulations alone; there is also the need for black and minority participation at all levels in the union to increase the likelihood that such policies will be enacted (Virdee and Grint 1994: 222-3). Moreover, self-organisation is one strategy that can increase participation and facilitate the participation of black members into the mainstream union structures more easily (Virdee and Grint 1994: 219).

The issue of self-organisation has now even penetrated the British police force. In 1994 the Metropolitan Police Commissioner gave his approval to the establishment of the Black and Asian Police Association which aims to provide a support network for ethnic minority officers, improve recruitment and reduce the wastage of black officers, and provide a black perspective on professional issues. The association claimed that one of the main reasons for its formation was the failure of the Police Federation, the existing organisation for police officers, to adequately represent the concerns of ethnic minority officers. The move was opposed by the chairman of the Metropolitan Police Federation who argued "This association will cause divisions and most black constables don't want it." (*Guardian* 12 August 1994). Although the Police Federation is not a conventional trade union as such, and is not affiliated to the TUC, it

is interesting that arguments on the principle and nature of special measures for ethnic minorities are spreading into other organisations and professional associations.

5.4. Recent examples of union structures and activities

It now may be said that, after many years of collective pressure by activists within and outside the trade union movement, appropriate 'race' and equal opportunity structures are finally being put into place within British unions. Unions increasingly have black workers committees with representatives from branches and regions, and special conferences, equal opportunities newsletters and group mailings for their black/ethnic minority membership. More unions are giving special training for black members to encourage their participation in union positions. Now these structures are in place, there are a range of issues which trade unions are occupied with. For example: ²⁴

- Unions are increasingly setting up racial harassment counselling networks, often composed of ethnic minority members so that black members will have a black union representative to turn to. Some of these also cover other forms of harassment too. The Fire Brigades Union, for example, recently set up a Fairness at Work helpline, and in 12 months had 450 calls about harassment and bullying. Whilst black people are relatively few in the service, they formed a disproportionate amount of these calls.
- Unions are using their structures of black/ethnic minority members to identify bias in selection for redundancy, promotion, and opportunities for training and career development, and in appraisals regarding performance-related pay. For example, in the Civil Service, unions have discovered that the introduction of performance related pay has led to new possibilities for discrimination, not only as a result of the bias of some managers, but because black/ethnic minority workers are more likely to be in those jobs in which it would be difficult for anyone to collect the 'credits' for higher performance-related pay. In one of the Civil Service unions this was seen as an example of where the black workers' structures had picked up on an issue of relevance to black members that would otherwise not have been spotted.
- Unions monitor the application of employers' equal opportunities policies in practice. For example, when a black bank cashier was suffering racist remarks from a customer who did not want to be served by her, the management moved her off the counter, arguing that "he is a customer". The union had to put pressure on the bank and remind them that they had an equal opportunities policy, and eventually the bank called the customer in and said that they would not accept this behaviour. Also in the finance sector, unions are concerned about the low employment of ethnic minorities in the sector as a whole, even though the sector is primarily located in urban areas. Thus the union is discussing with the employers their recruitment strategies.

²⁴ The following examples are taken from interviews with officers responsible for equal opportunities in eight British unions, carried out by John Wrench during 1998-1999.

- A union in the further education sector has identified a problem of black teachers and lecturers suffering worse appraisals regarding their probationary years. According to one union officer, they often feel isolated and vulnerable, and "get picked off". The union has been arguing for proper ethnic monitoring procedures to be introduced in the FE sector, so that injustices at this stage can be identified.

It is quite clear that unions have a key, and often unique, role to play in the identification of racial discrimination in employment. Twenty years ago unions were justifiably regarded with much suspicion by many black members. The theoretical interpretation of the white union racism and exclusionary practices of the 1950s and 1960s was provided by black radical writers such as Sivanadan (1982) and Gilroy (1982), who saw unions as sectionalist bodies narrowly concerned with protecting the interests of their existing white membership, thereby of little use for black workers engaged in anti-racist struggle. However, after many years of collective pressure from both black and white union activists, together with the emergence of a new generation of union leaders, unions increasingly have both the structures and the inclination to address racial inequality. Recently, more historically-informed and less pessimistic theoretical analyses of the role of unions in anti-racist struggle argue that both racism and anti-racism have long been a part of British trade union history, and that the racism of the union movement in its post-war period is not to be seen as 'natural' or 'typical' but must be understood in a historically-specific political and economic context (Virdee, 1999). It is true that examples of white members engaging in collective practices of racial exclusion can still be identified within British unions. One recent case is that of the Ford drivers at Dagenham who controlled the recruitment to their section with the result that in a factory where ethnic minority workers constituted a large proportion of the workforce, they were virtually absent from this highly-paid section. Nevertheless, this example itself constitutes a further indication of the change that has occurred within official British unionism, in that in this case the TGWU took up the grievance of seven of its ethnic minority members and backed them in a tribunal case in 1996, even though the 300 truck drivers had threatened to leave the union, and eventually did go. Despite the loss of these members, the union took the position that "there can be no compromise on racial discrimination"²⁵.

Unions have an important role in monitoring the disadvantage faced by their black membership and opposing racial injustice in employment. This is likely to be increasingly important work. Most of the discrimination evidence set out in Section 2 of this chapter has been concerned with discrimination in recruitment, and unions too can play their own part in monitoring the equal opportunities policies and recruitment strategies of employers. There is also an increasing awareness of the importance of what happens within organisations after recruitment. In the areas of promotion, access to training, performance-related pay, harassment and redundancy criteria, trade unions, more than any other party, are in the key position to identify and resist discrimination.

5.5. Unions, the degradation of work and the new excluded

²⁵ Bob Purkiss, TGWU Equal Opportunities Officer and CRE Commissioner, *Connections* CRE, London 1997/1.

There are factors which are increasingly making union protection of ethnic minority workers very difficult. For one thing, increasing numbers of workers are employed part-time, on temporary contracts, or as "self-employed". Whilst this gives to employers the 'flexibility' they desire, it means that temporary and part-time workers become marginalised from career development or training. In some sectors, ethnic minorities are over-represented in these conditions, and not through choice. For example, a recent report on "flexible working patterns" in local authorities showed that ethnic minorities were more likely to be in temporary work, and there was evidence that they were more likely than white workers to say that they were in temporary jobs because they could not find permanent jobs (Local Government Management Board 1997: 29). Since the further education sector became privatised there has been a polarisation of jobs, with a core of full-time staff and a greater number of part-time staff. Ethnic minorities are significantly under-represented in the full-time core and disproportionately represented in the part-timers, and the part-time staff are far less likely to be unionised.

Furthermore, long-term economic restructuring, recession, and recalcitrant structural unemployment have eroded the sectors which have traditionally provided the mainstay of trade union membership in the UK, and have increased the proportional significance of sectors that are difficult to unionise. Ethnic minority workers are now over-represented in sectors which have low unionisation rates²⁶. For example, over one quarter are employed in the Distribution, Hotels and Restaurant sector, and only one in 14 in this sector are trade union members (TUC 1998: 18). The last Conservative government abolished wages councils which had set minimum hourly rates in sectors such as hotels and catering, retail, hairdressing, fast food outlets, hotels and department stores. A quarter of all ethnic minority employees work in such low paid, low status jobs (*Guardian* 10 February 1993).

Anti-discrimination protection can only be effective in the context of reasonable minimum standards of employment protection. Even with the best measures, anti-discrimination law and practice will have a limited impact in the context of a general degradation of work. There is a large sector of degraded work where, without union support, ethnic minority workers will remain completely untouched by equal opportunity measures.

Furthermore, anti-discrimination law does not touch the increasing numbers of workers who are outside the formal labour market in highly exploitative illegal work. Across Europe, as rules for work permits become tighter, more migrant workers become 'illegal' or unauthorised, and are attractive to many employers because of their restricted bargaining power. For people with insecure employment status, including undocumented workers and asylum seekers, anti-discrimination law is almost irrelevant.

The worst abuses of undocumented workers occur in Southern Europe, and trade unions in Italy and Spain are working to organise and legalise these workers in order to combat the extreme exploitation they experience (Wrench 1996). In the UK such abuses are less dramatic. Nevertheless there is an expanding sector of low paid, unregulated, marginal work - sweat-shop workers, part-time workers, cleaners, and home-workers. Often they contain the most

²⁶ For this reason the unionisation rate of ethnic minorities may well now be lower than that found in the 4th PSI survey (Modood et al. 1997: 135).

vulnerable groups, such as older Asian women who speak little English, refugees, and 'illegal' workers. As in Southern Europe, their main hope is to organise via a trade union. However, attempts to organise these groups of workers in the 1990s were made immensely more difficult by the policies introduced by the last Conservative government. By the end of 1993 nine pieces of legislation, including five Employment Acts, had considerably reduced trade union rights and functions in line with the 'free and flexible' labour market lauded in New-Right ideology. The principal significance of the Conservative employment legislation was to deny workers access to resources of collective power (Smith and Morton 1993: 99).

The difficulties for ethnic minority workers who, in these circumstances, are trying to improve their conditions are made apparent in two examples: cleaning workers in London and sweatshop workers in the Midlands. Since the 1960's Heathrow Airport has been the largest employer of Southall's Asian women, who work in the cleaning and catering divisions. The conditions of the predominantly female Asian contract cleaning workers at Heathrow Airport had been brought to the attention of the TGWU on many occasions in the past (see CARF/SR 1981), but the union had done little to help them. In 1988, a report was published by the London Borough of Ealing, detailing the "job insecurity, physically demanding work, low pay, unsocial hours, shift work, lack of training, and allegations of racism and sexism from employers" (London Borough of Ealing 1988). In one case, Reliance Cleaners, a large contractor operating at Heathrow, had lost their contract, and they issued redundancy notices to all their staff. However, in order to avoid redundancy payments they tried to harass some of the Asian women workers into resigning, gave them false information about their entitlements, and tried to stop them from collecting their wages (*Public Service Action* No.12 December 1984). Although many of the women had been paying subscriptions to the TGWU they received more sympathetic assistance in their grievances from a local community based organisation. After receiving strong criticism over the neglect of these ethnic minority members, the TGWU undertook to make the organisation of the cleaners a priority task. A two-year recruitment initiative increased membership from six to 50; however, this was still only five per cent of the potential membership of 1,000.

A key factor as to why the local TGWU office was unable to organise a larger number of cleaners was the constraint of the restrictive employment legislation. The refusal of Heathrow Airport Ltd to agree to a union recognition agreement meant the local officer was unable to organise the cleaners at their place of work - the most likely place where the cleaners would join a union. The main method of recruitment had to be one of home visits to those cleaning workers known to be working at the airport. This was a very time-consuming task which often had to be undertaken outside normal working hours, and the resulting rewards in membership were small in relation to the effort. The difficulties were exacerbated by shift-working which meant that the officer would often have to make several visits to the homes of these cleaning workers before making contact with them. In addition, because the local officer was unable to organise the cleaning workers at their place of work, the recruitment literature which had been translated into the appropriate minority ethnic languages could not be distributed to them there (Wrench and Virdee 1996). The lack of union recognition rights had made protection of the cleaners an impossible task.

The second example concerns the attempts of the General, Municipal and Boilermakers and Allied Trades Union (GMB) to organise a group of mainly Asian women workers employed at Burnsall Ltd, a small metal finishing company in Smethwick, the West Midlands, in 1992-1993

(Wrench and Virdee 1996). Work was carried out in stuffy conditions, with long hours, imposed overtime and arbitrary docking of wages. The main catalyst for the strike was the health and safety issue. Workers complained of inadequate protection from the chemicals with which they worked; they reported that they developed skin rashes and dizziness from the tanks of heated chemicals, and that safety clothing such as gloves would not be replaced when damaged.

In the three months before the strike, the union made many approaches to secure recognition. A secret ballot took place of the 26 of the 29 workers who had joined the union and on 15 June 1992 the strike began. The objective was union recognition to combat low and unequal pay, imposed overtime and a hazardous environment. There were 26 strikers, mostly Punjabi women who spoke little English. Over the 54 weeks of the strike the dispute was intermittently featured in newspaper articles and television news and documentary programmes, and attracted considerable public support. London and Birmingham support groups were formed, marches of solidarity were held, and concerts and social events organised to raise money for the strike fund. However, despite the support and sympathy, the strike was called off after one year. Legal restrictions on picketing and secondary action had limited the impact of the strike on the company, which found it relatively easy to recruit replacement labour (Wrench and Virdee 1996).

The strike ended with a great deal of criticism of the union by the external support groups. Much of this harked back to memories of the 1960s and 1970s when some local unions colluded in discriminatory practices, such as paying Asian workers lower wages, barring them from promotion, or selectively making them redundant (Wrench 1987: 166-7). However, in this case the strike began with a genuine and determined commitment by the union to the Burnsall strikers. It devoted a great deal of union resources in time and money to the strike, and was able to generate much national sympathy through media coverage of the dispute. The major difference in the context of this dispute and those of the 1960s is the undermining of the possibility of resisting bad working conditions through structural unemployment and the restrictive employment legislation. In particular the legislation made once-normal collective action much more likely to be defined as unlawful activity, so that in the end very little pressure could legally be brought to bear on the employer to recognise the union or to improve working conditions.

To extend protection to these ethnic minority workers it is necessary to allow them to organise through a trade union. This should become easier under the New Labour government's 1999 Employment Relations Act. In the discussion leading up to the act, there were demands from the Confederation of British Industry that would have considerably reduced the effectiveness of this change in practice, such as stipulating that firms with fewer than 50 employees would be exempt from the legislation. This would have excluded most firms in Britain and a third of the privately-employed workforce (*Guardian* 17 March 1998), and would still allow sweatshops such as Burnsalls to block union recognition. Such firms would also have been comforted by the CBI's proposal that strikes over recognition disputes should be made illegal. However, in its final form the restrictions within the 1999 Employment Relations Act were less severe than this – unions will be able to seek recognition for collective bargaining from employers with more than 20 employees, and the union will be recognised if this is supported by a majority of those voting and at least 40 per cent of those eligible to vote.

In conclusion we can see that equal opportunities and anti-discrimination activities need to operate in a context of broader legal protection of working conditions, fair wages, health and safety, etc., and that this is complementary to organising within trade unions. This point will be further discussed in the next section.

6. CONCLUSIONS

The research evidence set out in Section 1 provides the latest employment profile of ethnic minorities in Britain. It shows the increasing differentiation between ethnic groups in the character of their employment – and unemployment - experiences. It also shows that despite the success, both educationally and in employment terms, of large sections of Britain's ethnic minority communities, when judged alongside their white peers they are still seen to carry the burden of an 'ethnic penalty.'

Whilst it would be incorrect to assert that the disadvantage suffered by members of these groups is primarily the consequence of discrimination, it is equally wrong to say that discrimination is no longer a factor of major significance. The research described in Section 2 of this paper showed the different ways that employment discrimination is brought to light, and some of the ways in which processes of discrimination operate in practice in recruitment. To recap:

- Longitudinal surveys showed that ethnic minority school leavers across Britain are having less success than whites even when other factors, such as educational attainment, are held constant.
- Discrimination tests show that people can be rejected at the first stage of application simply by having an Asian name or coming from a non-white ethnic background.
- Gatekeeper studies show how some employers operated to ethnic stereotypes and prejudices, and sometimes took account of the racist preferences of their white workforce. Although generally concealed, this can be revealed in the instructions given by employers to external agencies such as the Careers Service when seeking recruits.
- Gatekeeper studies also have identified a number of routine and institutionalised recruitment practices which can severely reduce the chances of success of ethnic minorities by indirect discrimination.
- Research on employment agencies identified further routines of exclusion. For example, agency employees who anticipate the rejection of their clients and thereby avoid submitting them to apparently racist employers perpetuate the processes of exclusion without a specific act of racial discrimination by an employer actually occurring.
- Testing the reactions of companies to speculative applications showed how ethnic minority candidates may well be dissuaded from applying to these companies at a later date. This is

significant, in that the lack of such applications is sometimes used by employers to justify the absence of equal opportunities procedures.

- Interviews with ethnic minorities themselves add a subjective insight into processes of exclusion. Some young people were conscious of the extra difficulties they faced or were likely to face when putting themselves forward for opportunities. This awareness constrained their job-seeking behaviour, so that again, the very anticipation of rejection on racial or ethnic grounds meant that over time, processes of exclusion continued to operate without individual acts of direct discrimination taking place.

6.1. Positive and negative conclusions

The above examples show that without specific investigations which are targeted to reveal different aspects of discrimination, most of the problem would not be recognised. However, it is also possible to assert that the picture as revealed by research in Britain is not totally negative. It is true that the 1994 PSI study found increasing reporting of experiences of racial discrimination in employment by ethnic minority respondents. This does not necessarily mean, however, that the real level of employment discrimination in Britain has been increasing. Indeed, the authors conclude that 'increases in reports of discrimination are compatible with stable or even declining levels of discrimination' (Modood et al. 1997: 132). They point out the fact that these reports have increased in a period when the position of minorities has generally improved - and that the ethnic groups in which these reports have increased the most are those which have made the most progress - suggesting that such reports are related to factors such as the awareness of the issue and the perception of the receptivity of the climate of opinion.

A climate in which equal opportunities issues are being addressed may, at least initially, increase complaints of discrimination and perceptions about the prevalence of discrimination (Modood et al. 1997: 132).

An increase in the reporting of experiences of racial discrimination may also reflect an improved state of upward social mobility in that 'as ethnic minorities become more effective competitors for more prized jobs and professions, the salience of the issue of discrimination may, ironically, increase' (Modood et al. 1997: 132). This is not inconsistent with the findings from one recent study of the job-seeking behaviour of ethnic minority young people (Wrench and Qureshi 1996) quoted earlier in this chapter, which proved different to those of previous studies. Earlier research had found a relatively high degree of job satisfaction among Bangladeshi workers, and little experience of discrimination, mainly because they worked for Bangladeshi employers. However, the generation represented in the more recent sample, whilst still over-represented in the same limited occupational areas, were not generally 'satisfied' with their employment. They recognised that their work was temporary, insecure and poorly paid, with no promotion structure. The young men in this sample were far more concerned about racism and discrimination, precisely because many did not intend to keep their horizons low, as the previous generation had done.

As a result of findings of the 1997 PSI study that many South Asians believed that their religion was one of the reasons for discrimination in job applications, (see Section 2) as well the evidence from wider analyses of Islamophobia (Commission on British Muslims and

Islamophobia 1997), there is a growing lobby for legislation against religious discrimination. The UK does have legislation against religious discrimination but it is strictly confined to Northern Ireland and does not extend to mainland Britain. Over the years, a number of Muslims have filed industrial tribunal cases in Britain alleging anti-Muslim discrimination, sometimes involving the dismissal or non-recruitment of a woman because she is wearing a Muslim headscarf (*hijab*). The courts have ruled, however, that while Sikhs and Jews are ethnic groups within the meaning of the law and so entitled to protection against racial discrimination, Muslims are not. Muslims enjoy some redress as Pakistanis, Arabs etc and so, if, for example, some (Muslim) dress was identified as being part of a Pakistani identity a *prima facie* case of indirect discrimination against Pakistanis could be made in respect of an employer forbidding such dress. This is, however, very limited protection, not least because a verdict of indirect discrimination wins no compensation against the discriminated employee.

The British Government's present position is that while it recognises that the position of Muslim groups such as Pakistanis and Bangladeshis is the worst of all groups in socio-economic terms, it is unconvinced that religious discrimination is the source of the problem. It, however, has commissioned a major research project to look at the nature and extent of religious discrimination and to report by the end of 2000.

In Britain there is now an established tradition of critical research which has successfully brought discrimination to light, in particular through the method of discrimination testing by matched pairs.²⁷ There is a legal climate which enables complaints of discrimination to come forward, and this is helped because Britain uses civil rather than criminal remedies. In France, for example, where the criminal law is used, there were just four convictions recorded for racial discrimination in the workplace in 1997, whereas in the same year in Britain, 2,990 cases were registered under the Race Relations Act, most being settled before going to a tribunal (Banton 1999). In the UK the debate over ethnic monitoring has been largely won, whereas in some other EU countries the keeping of records by ethnic background is officially proscribed. This makes equal opportunities policies or specific initiatives to help ethnic minorities very difficult to target or monitor in these countries, with the result that people either find informal ways of doing this, or disguise such initiatives by using indirect criteria to target the ethnic minority population, such as locality.

Nevertheless, despite the improvements of recent years it is true that there remains an 'ethnic penalty' to be paid by non-white people in Britain. In other words, ethnic minorities are steadily getting better jobs but are still doing so to a lesser extent than white people with the same qualifications (Heath and McMahon 1995, cited in Modood et al. 1997: 84). The research described earlier in this chapter on the processes and structures of ethnic and racial discrimination experienced in the labour market provides part of the explanation as to how this ethnic penalty is paid.

This leads us to a discussion of the policies which are so obviously still needed to counter discrimination and exclusion. Section 4 of this report showed the rather mixed experience of the implementation of equal opportunities and anti-discrimination policies in work

²⁷ In some other EU countries this is not so – for example, the Swedish Council for Social Research prevented such tests being carried out in Sweden, from the standpoint of research ethics (Banton 1997).

organisations. There are an increasing number of major companies with high profile equal opportunities initiatives. However, it remains the case that relatively few companies have serious plans for implementing racial equality initiatives. The question must then be raised as to whether there is too much reliance on 'voluntary' initiatives, and whether legislation should be strengthened to apply a little more pressure on employers.

6.2. The balance between voluntarism and compulsion

Employers are generally against the idea of legally-based pressure to introduce equal opportunity and anti-discrimination policies. Michael Banton writes:

One of the reasons for resisting equal opportunities measures is that they entail changes to traditional assumptions ... and introduce external rules into what have previously been self-regulating processes. They extend the sphere of public control and diminish that of private arrangement (Banton 1994: 67).

This constitutes another example of the moving boundary between the private and the public sphere: once car drivers thought that drinking alcohol was a private concern, smokers thought they could smoke anywhere and motor cyclists thought that it was entirely their own business as to whether they wore a crash helmet or not. 'Such things are now regarded as a matter of public concern and there are vigorous debates as to where the line between private and public should be drawn' (Banton 1994: 68). Early in industrialisation an employer thought that employing whom he liked, under what conditions, was entirely his decision - in the 1840s the Marquis of Londonderry, the North-East coal owner, pronounced "My coal miners are my property, and I will brook no outside interference with them." Later labour legislation introduced state control into the labour relationship. The exact degree of this remains an issue of contention: the American philosopher Robert Nozick argues that the right of employers to hire is just the same as the right of individuals to marry. Individuals should marry who they please and private employers hire who they please, and the government has no right to interfere in either of these decisions (Nozick 1974, cited in Ezorsky 1991: 81). Whilst few employers today would go that far, most remain intrinsically opposed to legal constraint in this field.

One source of resistance by employers to equal opportunities measures in the UK has been a tendency to confuse 'positive action' with 'positive discrimination'. As stated in Section 3, the UK legislation allows employers to carry out positive action measures. These are measures which are over and above the prevention of discrimination, and could include the provision of extra training to under-represented minorities, or special targeted initiatives to encourage them to apply for opportunities. However, this does not mean giving ethnic minorities more favourable treatment at recruitment interviews, or setting minimum quotas which must be attained. The law does not allow positive or reverse discrimination, such as reducing entry standards in order to appoint more minority group members. Yet misconceptions that equal opportunities policies in general, or positive action in particular, entail preferential treatment for ethnic minorities can still be found amongst British employers, and are still very commonly quoted by employers and their associations throughout the EU (Wrench 1996). This acts as a barrier to the extension of voluntary equal opportunities measures.

An initiative designed to encourage the further adoption of voluntary measures was the Joint Declaration on the Prevention of Racial Discrimination and Xenophobia and Promotion of Equal Treatment at the Workplace, agreed by the European social partners in Florence in October 1995. The aim of this Declaration was to encourage measures to facilitate equal treatment in recruitment and selection, work allocation and promotion, training and development, and dismissal and redundancies, as well as dealing with discrimination, and showing respect for cultural and religious differences. It also called for a Compendium of Good Practice to be compiled as part of a series of measures to follow up the Joint Declaration.²⁸ Significantly, it also declared that the Compendium should 'promote the notion that it is in the interests of business to implement equal opportunities policies'.

6.3. The business case for equal opportunities

The work of equal opportunities proponents would be greatly assisted if employers could be convinced that there is a 'business advantage' in equal opportunity practices. This is the kind of argument stressed by the CRE in its 1995 campaign 'Racial Equality Means Business'.

There may be a number of reasons why an individual employer might decide to introduce specific measures to counter discrimination and to further equal opportunities at the workplace, over and above the desire to reduce the likelihood of unlawful behaviour occurring. There may be a calculation of commercial advantage by making the company more attractive to ethnic minority clients, or improving the company image in a culturally diverse area. It may make the company better equipped to deal with new international markets. It may form part of an internal labour market policy to maximise the potential of existing valued employees, avoiding, for example, the poor motivation and low productivity that stems from workers employed below their capacity. Or it may be motivated by broader moral and social concerns over the divisions in the social fabric which may result from unwarranted exclusion from opportunities of one section of the community. Furthermore, the introduction of a well-managed equal opportunities programme which includes the accurate monitoring of both the existing workforce and new applicants can give new and helpful insights into aspects of the organisation's human resource management.

Probably the strongest boost to the "equal opportunities is good for business" argument came with the growing influence over the 1990s of diversity management, which stresses business advantage as part of its core philosophy. Diversity management, as discussed in Section 4, is an approach which encourages management to deal better with a heterogeneous workforce, facilitate understanding and communication between different cultures, and handle differences in age, background, culture, ethnicity and gender in positive ways that promote flexibility, creativity and efficiency. The philosophy originated in the US, where equal employment opportunity legislation has long existed, and affirmative action measures have had some tangible success in encouraging the better employment of previously excluded groups. As a member of a New York-based business research group stated:

²⁸ This was published at the end of the 1997 European Year Against Racism - Wrench 1997a.

It is now a business imperative to do more than the traditional compliance with equal employment opportunity, affirmative action and sexual harassment laws ... more and more, the primary reason for implementing diversity training is business need and the desire to be competitive (Washington Post, 5 February 1995)

By 1993 it was estimated that 40 per cent of companies in the US had instituted some form of diversity training and that approximately half of the Fortune 500 companies had "someone responsible" for diversity (The New Republic, 5 July 1993).

Criticisms of diversity management

The meaning of the term 'diversity management' is subject to wide interpretation, but all definitions contain one specific and necessary characteristic: it is a strategy for improving organisational competitiveness and efficiency motivated purely by business aims and market advantage. Some of the advantages of this approach were discussed in Section 4, namely that it makes equal opportunities more palatable to those who might otherwise resist it, by framing it in the language of human resource management, and it encourages the 'mainstreaming' of equal opportunities issues. However, there are criticisms of diversity management which stem from several different – and sometimes competing – standpoints. Features which stand as the strengths of diversity management for some people are seen as weaknesses by others. From some points of view it is criticised as being too individualistic in its application, whereas from others it is criticised for an over-emphasis on ethnic groups in its core assumptions

For example, in 1997 at the TUC Black Workers' Conference a motion was passed which noted "with concern" the increasing trend amongst personnel and human resource management practitioners to seek to replace existing equal opportunities policies and procedures with those titled managing diversity or mainstreaming, on the grounds that "both of these stress the perspective of the individual within the employing organisation, rather than focussing on the promotion of equal opportunities strategies, or on challenging discriminatory practices and outcomes." Amongst other things, the Conference called on the TUC Race Relations Committee to support initiatives that expose the inadequacies of "managing diversity" and "mainstreaming". Probably one of the things worrying ethnic minority trade unionists is the fear that diversity management can be used to give the impression that an organisation is 'doing something' for excluded groups whilst avoiding many of those aspects of equal opportunities activities which are likely to be unpopular with employers. For example, employers might be more receptive to the provision of "inter-cultural awareness" training and less receptive to positive action measures to produce a workforce which reflects the ethnic make-up of the locality, or anti-discrimination training to modify the behaviour of white managers and employees. If a diversity management approach consists of little more than celebrating diversity, it will sidestep many of the 'harder' elements which have existed within a broader equal opportunities and anti-discrimination approach.

There are other, more academic critiques of diversity management, which accuse it of encouraging the reification of ethnicity. It has been argued that it is erroneous and fallacious to regard ethnic cultures as identifiable and unchanging systems of shared values and attributes attached to particular groups. This has operated to the disadvantage of excluded groups in the past. For example, Soininen and Graham (1995) describe the expansion of new types of jobs in Sweden which involve the delegation of responsibility, a stress upon individual initiative and a greater reliance on teamwork, leading to an increase in the importance of communication skills

and 'social competence'. Some authorities have seen this as an understandable justification for not employing people from other ethnic backgrounds, because, for example, they may lack the knowledge of and familiarity with functioning in a Swedish environment which is part of this 'social competence' (Soininen and Graham 1995).

In theory, a diversity management approach could reverse this. Instead of cultural difference acting as a liability and a barrier to the equal opportunity of ethnic minorities, it could in some circumstances be seen by employers as a desirable trait, and become for the holder a positive asset. However, critics say that the approach of diversity management still operates from an unnaturally exaggerated and reified view of ethnicity and culture. As one Swedish academic put it, when discussing multiculturalism and diversity in Sweden, the problem with diversity management is the "conservative, essentialised and static" perceptions that become associated with the concept of diversity.

The existence of differences among people due to their national origin become thus an axiom which does not need to be verified. Furthermore, to the extent that even after two or even three generations individuals are still defined in relation to their 'home' countries, the importance of actual living conditions in Sweden is neglected. This makes the message of ethnic diversity static and conservative (de los Reyes 1998: 5)

Diversity management therefore continues to reify ethnicity and present an exaggerated view of the importance of cultural differences, fallacies which were drawn on as arguments for excluding ethnic minorities in the first place.

However, perhaps the most potent critique of diversity management is that it removes the moral imperative from equal opportunities actions. Arguments for the introduction of equal opportunities policies have traditionally related to equality, fairness and social responsibility. Critics argue that diversity management has moved equal opportunities away from a moral and ethical issue and turned it into a business strategy. The problem for some critics is that fighting racism and discrimination will now only be important if there is seen to be a business reason for doing it. As Grice and Humphries (1993:15) put it:

The diversity argument is being couched entirely in economic terms and gives us no reason to see diversity management as anything other than an attempt by management to dissociate traditional EEO and AA²⁹ arguments from arguments of equity and justice. As a consequence, arguments such as 'managing diversity' free up another area of decision making to managerial 'truth' and management prerogative and peripheralise arguments promoted to redress inequity or injustice."

So, they conclude, to turn the argument around, such policies say "racism is OK to the extent that the market says that it is OK". Racism is indeed considered to be unacceptable, but only when the outcome of such racism leads to inefficiency in the utilisation of human resources. The context of this is the New Right discourse of laissez-faire in relation to government activity, and a complete faith in market principles, so that external non-business constraints promoting equal

²⁹ i.e equal employment opportunity and affirmative action

opportunities are seen as illegitimate. However, as a philosophy it is also not inconsistent with the "new public management" encouraged by New Labour in the UK, which neglects public service values such as equity and reduces ethical judgements to considerations of practicality and value for money (Faulkner 1999: 2).

Some diversity theorists such as Thomas (1990) have asserted that previous equal employment opportunity and affirmative action policies which have focused on group membership are 'unnatural'. In response, Grice and Humphries (1993: 17) argue:

To Thomas, affirmative action is referred to as 'unnatural' because it interferes with the 'natural' functioning of a market comprised of competitive individuals aspiring for upward mobility. What Thomas doesn't say is that the categories natural and unnatural are equally the products of discourse. Anything can be defined natural or unnatural if you are in control of the parameters by which that categorising is based. The market is held up as the ultimate natural while things like intervention based on an ethical argument is held up as decidedly unnatural.

Thus critics such as Grice and Humphries argue that despite having an appearance of concern with fairness, equality of opportunity and empowerment, "the economic argument underlying the discourse of managing diversity is unlikely to reduce the systematic disenfranchisement of groups of people from access to employment opportunities and economic security." (Grice and Humphries 1993: 22). Where inequality has been historically structured into social and employment relationships, and where a group has been systematically confined into low paying jobs for generations, then group structured inequalities in education and employment will simply persist over time. Only positive or affirmative action policies, it is argued, will shift this, rather than a 'celebrating diversity' approach.

Empirical evidence on diversity in organisations

There is a danger that the values of diversity management have been adopted too uncritically and enthusiastically by those for whom elements of the ideology have been useful. A 1998 American review of the literature (Williams and O'Reilly 1998) concluded that the "diversity is good for organisations" mantra has been somewhat overstated. For example, most of the research which supports the claim that diversity is beneficial for groups has been conducted in a laboratory or classroom setting. Laboratory studies neglect the variable of time, and research in short-lived groups is not a strong foundation for judging the effects of diversity in a real organisation. The smaller number of studies which have looked at groups in an organisational context show a less optimistic view, with evidence of stereotyping and conflicts within groups. Some field studies have shown that race and gender diversity can have negative effects on group processes and performance (Williams and O'Reilly 1998: 80). After reviewing the literature, Williams and O'Reilly conclude that, under ideal conditions, increased diversity may have a positive impact through, for example, the increase in skill and knowledge that diversity brings. However, they argue that the preponderance of empirical evidence suggests that diversity is most likely to impede group functioning, and conclude:

Unless steps are taken to actively counteract these effects, the evidence suggests that, by itself, diversity is more likely to have negative than positive effects on group performance. Simply having more diversity in a group is no guarantee that

the group will make better decisions or function effectively. In our view, these conclusions suggest that diversity is a mixed blessing and requires careful and sustained attention to be a positive force in enhancing performance (Williams and O'Reilly 1998: 120).

If this is the case, the conclusion has to be that diversity management alone is not going to do anything for fairer recruitment. Indeed, one of the stimuli for diversity management in the US was the fact that equal employment opportunity and affirmative action policies had already operated with some success in helping to produce a more diverse workforce. In reality, it might be closer to the truth to say not that "diversity is good for business" but that "diversity *management* is good for business" in those particular organisations where demographic diversity already exists, and where prejudice, stereotyping and conflicts can easily arise and have the potential for severely disrupting group performance. "The challenge is to develop ways to accommodate these tendencies so that their negative effects are attenuated and the positive effects of diversity can be achieved" (Williams and O'Reilly 1998: 121). ***However, this does not mean that diversity management is a substitute for some of the older equal opportunities and anti-discrimination strategies.***

Some recent evidence of the reactions of trainees to diversity management training came from a British report (Taylor et al. 1997), commissioned as part of an ILO project covering several European Union countries on the extent and effectiveness of anti-discrimination training approaches. The UK report found that the responses of trainees to diversity training were quite mixed. The relatively pure and narrow form of 'valuing diversity' approach aroused little positive reaction. Often trainees felt that diversity management was something which needed to follow on from, rather than replace, effective anti-discrimination and equal opportunities policies. Trainees felt that as barriers to the employment of minorities have not yet been broken down in the UK, diversity training was a little premature. However, in those cases where diversity training included elements of anti-racism training, and training in practical ways of avoiding discrimination, then trainees were far more positive about its impact (Taylor et al. 1997: 62). As the CRE puts it, a diversity policy which simply emphasises the need for all to be considered on their individual merits is unlikely to reach those who will not apply without encouragement. "Organisations that do not have a diverse workforce cannot begin to manage diversity". ***Thus diversity policies are not an alternative to equal opportunities policies – the two are interdependent*** (CRE no date).

The business argument overstated

It is true that there can be identifiable advantages for many employers in the introduction of equal opportunity measures, and some employers have embraced them willingly. However, the 'business' and 'diversity' arguments can be overstated. Michael Rubenstein, writing in *Equal Opportunities Review* (November/December 1987) calls the argument that equal opportunities makes good business sense a 'modern myth and misconception'. He argues that if this really were the case, then profit-maximising employers would have rushed to adopt policies years ago. The problem is that, far from being irrational, under some circumstances racial discrimination can be quite rational behaviour. Equal opportunities procedures cost time and money, and taking on a black employee instead of a white employee might impose a cost in terms of customer behaviour. Mark Gould, writing in the USA, argues that although institutional racism may well be a characteristic of an inefficient system, organisations manifesting racism

can nevertheless be competitive within the current institutional context because it lowers wages and reduces costs, even though alternative institutional arrangements would enhance the efficiency of production. Thus institutional racism can be profitable and sustainable for individual employers even though its elimination would lead to a more efficient and prosperous economy (Gould 1991).

Experience in Northern Ireland in the 1980s showed that when the emphasis of compliance with Fair Employment legislation remained voluntary, very few organisations introduced any sort of equal opportunities measure. Change only came after a campaign began in the US to put pressure on corporations and others with investments in Northern Ireland to make sure that their subsidiaries adopted anti-discrimination and affirmative action practices (McCrudden 1999: 1706-1707). This experience is compatible with Rubenstein's conclusion that although equal opportunities is morally, socially and politically right, most employers will continue to discriminate until it costs them more to discriminate than not to discriminate, whether through financial sanction, the threat of law, or loss of commercial contract.

To conclude, we can see that although the 'voluntary' measures described in Section 4 are important and are to be encouraged, they are unlikely to be adopted in any significant way without pressure from the legal and administrative measures described in Section 3. There are, as we have seen, good arguments as to why these should be strengthened. Similarly, the 'voluntary' measures can be further encouraged by trade unions, as described in Section 5, whether by working for equal opportunities policies to be included in collective bargaining arrangements, monitoring to see that recruitment in practice is in line with these policies, or highlighting differential treatment of ethnic minorities once in employment. These activities by unions were themselves often stimulated in the first place by the collective organisation of black workers within and outside unions.

6.4. The need for minimum legal standards of employment conditions

Finally, we also saw in Section 5 that equal opportunities practices and diversity management are in practice virtually irrelevant for those ethnic minorities who are found in the lowest paid, least protected and most precarious sectors of employment. For some low-paying employers, a diverse workforce is the last thing they want – they may positively strive for a very *undiverse* workforce of, for example, Asian women who lack the ability to speak English well. The absence of this skill, combined with the effect of ethnic and gender stereotypes, leaves them unable to find alternative employment and powerless in the face of extreme exploitation. For these workers, the right to organise to bring about improvement in their working conditions is a necessary starting point. Therefore, *for this particular group of ethnic minority workers, the priority for tackling the 'ethnic inequality' they experience is not solely via direct measures such as race relations legislation but also through indirect measures such as the introduction of legislation allowing union recognition, and the effective enforcement of a national minimum wage policy.*

Even with the best measures, anti-discrimination law and practice will have a limited impact in the context of the degradation of work. Anti-discrimination protection can only be effective in the context of reasonable minimum standards of employment protection.

In the absence of a high general standard of employment protection, the existence of such (anti-discrimination) laws merely accentuates the hierarchy of employment. Only those people with secure, permanent jobs and the protection of a strong trade union may be in a position to insist on their rights. Those at the bottom of the hierarchy - who are most vulnerable and disadvantaged and so most in need of legal protection - are precisely the groups who have the least access to the law. This is leading to a greater polarisation, whereby an ever increasing proportion of people find themselves in a twilight zone of temporary, casualised, unregulated work (Sales and Gregory 1995: 5).

In its recent history the UK has had a relatively poor record regarding the regulation of employment conditions. For example, Britain alone in the EU refused to adopt the 'Social Charter' - the 1989 Community Charter of the Fundamental Social Rights of Workers - which set out principles relating to the improvement of the well-being of EU workers, covering employment and remuneration, better working conditions, worker participation, health and safety at work, etc. On the contrary, in the early 1990s the UK government abolished the existing 'wages councils', which had set minimum hourly rates in sectors such as hotels and catering, retail, hairdressing and the rag trade, fast food outlets, hotels and department stores, sectors where a disproportionately large number of ethnic minority employees worked in low paid, low status jobs (*Guardian* 10 February 1993). Dismantling the wages councils left the UK as the only EU country without some form of legally enforceable minimum wage protection. At the same time, the Conservative government's undermining of trade union rights in a series of Employment Acts left union rights far inferior to those in many other member states. As we saw in Section 5, this tied the hands of unions which had tried to improve the pay and conditions of highly exploited ethnic minority sweat-shop workers.

Thus the paradox is that the UK maintains some of the strongest anti-discrimination legal measures in Europe, whilst its standards of general employment protection have been among the weakest in the EU, meaning that in practice its anti-discrimination measures have been practically irrelevant to large sections of its ethnic minority workforce. In some other EU countries standards of general employment protection have been higher - and this has often benefited migrant workers along with indigenous workers - but the weaker anti-discrimination measures have meant that its migrant and ethnic minority workforce have been less able to seek protection against those extra disadvantages suffered only by visible minorities (Wrench 1996). With the election of the Labour government in the UK in 1997, there has been a movement towards the better regulation of employment conditions, with the introduction of measures such as a national minimum wage, and an Employment Relations Act which increases trade union recognition rights. Clearly, what is needed in any one EU member state are both elements: specific anti-discrimination measures, and broader legal standards and enforcement measures regarding general employment conditions.

There is now likely to be a greater convergence of EU countries with regard to measures for protection against racial discrimination in employment since the European 'Race Directive' was agreed, in June 2000. This sets a common legal framework of minimum protection against racial discrimination in employment across all the 15 member states and obliges them to adopt into their national arrangements a number of measures, many of which are similar to those existing in the UK. These include a practical recognition of indirect discrimination, and the establishment of a body for the promotion of equal treatment that will provide independent assistance to the victims of discrimination.

6.5. Final remarks

Overall, there are both positive and negative elements within the British experience, as revealed by research over recent years. Sophisticated quantitative analyses, careful differentiation between groups, linkages between ethnicity, religion, class and gender, new analyses of racism, including 'new' racism, cultural racism and Islamophobia, suggest that while there may be no singular 'black-white' divide, 'race' and ethnicity continue to shape economic as well as wider socio-cultural divisions in Britain. Research described in Section 1 (Modood et al. 1997; Iganski and Payne 1999) show that by most measures, racial disadvantage is declining and the circumstances of the minority groups are diverging. Some groups are poorly placed in educational and occupational hierarchies, others have overtaken the white population in the acquisition of qualifications, in business ownership and in entry to some prestigious professions, though perhaps all minorities are underrepresented as managers in large establishments. This overall picture reveals employment patterns for some sections of ethnic minority groups which are far better than that painted by surveys in previous decades, which had shown a general confinement of ethnic minorities to low skilled, low paid work. Whilst the causes of this development are many, it is not unreasonable to suppose that one part of the explanation is the role of equal opportunities policies in breaking down barriers of discrimination and disadvantage.

There has been a growing awareness of the issue of employment discrimination, and much progress has been made in developing policies to counter it. The recent growth of diversity management does have a positive side in the accompanying assumption that equal opportunities issues should be 'mainstreamed' in the organisation, and that racial and ethnic discrimination are to be combated. The business arguments within this philosophy are consistent with the recognition at the level of the European Commission that, in the words of Jacques Santer, "it is essential for businesses to assert and to demonstrate in practice that economic performance and social responsibility can go hand in hand".³⁰ Nevertheless, it is not possible to leave issues of equal opportunities and anti-discrimination to market forces and to conventional business dynamics. The British experience has been that legal and administrative measures, voluntary policies, and the pressure on organisations from the collective actions of workers have all been necessary to bring about progress in the processes of integration of immigrants and ethnic minorities into employment.

³⁰ Speech by Jacques Santer at a conference of the European Business Network for Social Cohesion, Brussels, October 1998.

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